

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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21-CR-80 (RER)

3 UNITED STATES OF AMERICA,

United States Courthouse
Brooklyn, New York

4
5 -against-

March 14, 2023
9:30 a.m.

6 DOUGLASS MACKEY,

7 Defendant.

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9 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY SELECTION
BEFORE THE HONORABLE RAMON E. REYES, JR.
10 UNITED STATES MAGISTRATE JUDGE

APPEARANCES

11 For the Government:

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20 Also Present:

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21 EMILY TANNENBAUM, STUDENT

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24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

1 (In open court; Jury present.)

2 THE COURT: Okay. All right, so we need to discuss
3 a couple of things.

4 As I understand you are aware, Judge Garaufis has
5 scheduled a telephone conference at 3:15 today to discuss the
6 issue of the adjournment of the trial and whatever else, as
7 far as the issues with respect to Mr. Hawley are concerned.
8 We will, of course, take a break during the jury selection to
9 let you go speak with him.

10 I have had conversations with him through his law
11 clerk, and we discussed a couple of things.

12 First, he is inclined to -- he is contemplating
13 adjourning the trial until March the 20th and setting aside
14 that week and the next week, which is not a big change from
15 the existing schedule, but it is a change, and that would
16 necessitate questioning each of the jurors who have qualified
17 already to see if it presents a problem.

18 So I intend to bring each of the jurors in who have
19 been qualified already and ask them if that would be a
20 problem, one by one. We'll do that first, first off.

21 I suspect that with many of them it's not going to
22 be an issue, in fact, with one of them it's probably a better
23 schedule because she had travel plans this weekend and she
24 wanted to be done by 4:00 on Friday. So it's not an issue for
25 her. So that's that.

1 If for whatever reason Judge Garaufis switches
2 things to -- you know, adjourns the trial for a couple of
3 weeks or whatever, I think we lose this panel completely.
4 They'll send everybody home and whenever the trial is we've
5 got to start again from scratch.

6 But you'll deal with him with that. We have to
7 press forward and try to get as many jurors qualified as we
8 can.

9 I also asked Judge Garaufis if he was amenable to
10 lowering the number of alternates, and he said, yes. So he
11 asked that we try to get six, but that if we got only four,
12 that would be sufficient.

13 So my goal is today to try to get to 36 qualified
14 jurors, which would be enough for four. And if we do that,
15 then we go with that.

16 I want to avoid, if at all possible, bringing people
17 back tomorrow. Because who knows what's going to happen with
18 the weather. We've got folks coming in from the Island. It's
19 going to be worse out there than it is here in the City. I
20 want to avoid the selection tomorrow, if we can. If that
21 means we go down to four alternates, so be it. If we're lucky
22 enough we'll get 40 today, we'll do that, and we'll get the
23 six.

24 Two issues with respect to the panel and how to go
25 forward. Yes, yes, I guess two issues.

1 First, there are a number of jurors who have spoken
2 to Miriam about issues, prospective jurors who have spoken to
3 Miriam about issues and some have expressed legitimate
4 concerns. One Juror, Number 176, has prepaid travel starting
5 tomorrow.

6 I don't know what the full travel plans are, it may
7 be that, you know, be back by the 20th, who knows. But
8 another has child care issues. And most of them are in the
9 high numbers.

10 My thought would be to those who have expressed
11 significant issues that need to leave like by 2:00 today, just
12 dismissing them, and the others hold just on to them until
13 they come up.

14 But this is related to another thing that I'm going
15 to suggest.

16 There are a number of prospective jurors who
17 indicated no issues with anything. They didn't answer or hold
18 their numbers up.

19 Is there any objection to bringing them in first to
20 ask the case specific and pedigree questions? And then once
21 that list is exhausted, move on to the people who have
22 expressed or raised their number to any number of questions
23 that we asked.

24 I mean there's no magic to this list and order, it's
25 randomly generated. So I don't know that going out of order

1 is prejudicial to anyone. And it just seems that if we take
2 care of the people who have no issues first, it will move more
3 quickly and we may get to the requisite number of prospective
4 jurors we need to pick.

5 MR. PAULSEN: Yes, Your Honor, we noticed that up on
6 the next stretch of 30 there's a large number of individuals
7 who didn't flag any issues, so we don't have an objection with
8 proceeding in that way.

9 THE COURT: I count one, two, three, four, five,
10 six, seven, eight, nine -- nine within the next 30 minutes.
11 It's not enough but -- and then after that there are more.

12 I don't think we'll get to the full panel that way,
13 but we'll have a good idea how many more we need after that.

14 Mr. Frisch, do you have a problem with that?

15 MR. FRISCH: I don't know yet. I have to give it a
16 second.

17 Can I sit?

18 THE COURT: Yes, you can sit.

19 MR. FRISCH: So let me think about it. Without
20 sharing what I'm thinking, let me have a moment to think about
21 it and talk to folks here before I state a position.

22 But while I'm thinking about it, I just want to flag
23 another issue for the Court.

24 This morning there's an article online, which I just
25 saw, which is titled "'Alt-Right' Disinformation King Faces".

1 And I'm not going to get into what I think of the
2 article, whether it's true or not, we're going to have a trial
3 for that.

4 It's written by the gentleman who's in the audience
5 today and who was here yesterday and is associated, as I
6 understand it, with Mr. O'Brien, who was the subject of a
7 letter that I submitted to the Court last night.

8 I don't want Your Honor to call attention to the
9 article to the jurors or call attention to anything in the
10 media, but I would ask the Court, which Your Honor will
11 probably do any how in a subtle and, you know, matter of fact,
12 nonchalant way, to remind folks: Don't read any media that
13 you may or may not see about this case, just to reinforce that
14 to the extent somebody might forget that important piece of
15 advice.

16 With regard to the other issue, I just want to take
17 a second, you know, without burdening the Court, if the Court
18 will permit take five minutes and talk to Mr. Mackey and
19 Ms. Tannenbaum about whether or not there's some impact on the
20 randomness of the selection, if we do one set of jurors before
21 another set of jurors, depending on who may or may not have
22 issues.

23 I recognize this is not an exact science, this
24 process. And so I always kind of feel the best thing to do is
25 not upset the karma, so to speak. I also understand the

1 Court's interest and Judge Garaufis' interesting in getting
2 this done, especially with the impending possible weather
3 problems later today. So if I could have just a few minutes
4 to talk about it quietly among ourselves and think it through,
5 I'd appreciate it.

6 THE COURT: Okay, that's fine.

7 On the first issue you've raised, what I will do
8 with the ten to find out if they have a problem with the
9 change in dates, is I will ask them, Since yesterday, have you
10 heard, read or seen any reports about this case; if so, what
11 did you see? So take care of them.

12 And for the whole, I guess I could ask that of each
13 of the others that come in and we can find out.

14 MR. FRISCH: Yes, and again --

15 THE COURT: An innocuous way of doing it.

16 MR. FRISCH: Exactly.

17 THE COURT: Okay, that's not a problem.

18 All right, why don't you take some time to think and
19 talk. And I'm going to stay here. I'm not going to go away.
20 So don't mind me.

21 MR. PAULSEN: Your Honor, if I can flag one
22 additional thing.

23 We were surprised to see the contemplated move to
24 Monday, because it doesn't quite accommodate the defendant's
25 request. But at the same time, we're quite aware we will have

1 some scheduling problems with some witnesses, should the trial
2 move in that manner.

3 Does Your Honor think it makes sense for us to try
4 to reach out to Judge Garaufis sooner than 3:15 to try to get
5 some clarity, or did you gather whether that was truly the
6 earliest?

7 THE COURT: I think that it makes sense, certainly
8 from my selfish perspective, and the perspective of our panel,
9 if this ain't happening, let's -- let's cut it now.

10 The problem, though, is that Judge Garaufis is down
11 in Washington at meetings of the Judicial Conference, and 3:00
12 is the earliest that he's out of his meetings.

13 I mean you can -- I don't know if he is the chair of
14 whatever committee he's meeting with or a member, but I would
15 suspect it's going to be difficult to get anything before
16 then. He's a very prompt person, but he's also very busy.

17 MR. PAULSEN: I have to say, given the quantity of
18 orders he's issued, I'm stunned that he's not here.

19 THE COURT: He's a good remote worker.

20 MR. PAULSEN: While Mr. Frisch is reaching out, and
21 while we have a few minutes, I may just reach out to chambers
22 and let them know that there may be a problem, and so if there
23 is any opportunity to meet earlier, I'll just let them know
24 that would be our wish, but with the expectation that 3 may be
25 the earliest.

1 THE COURT: All right, why don't you do that. And
2 just understand something. That if it is -- if it is put off
3 two weeks, it's going to be very difficult to use this panel.

4 MR. PAULSEN: Understood.

5 THE COURT: And it will be very difficult to get
6 another panel for two weeks from now, unless sufficient number
7 of jurors have already been sent out notices for selections on
8 other cases and those cases are no longer alive. So it may be
9 that you need to put it off four weeks or six weeks.

10 MR. PAULSEN: I understand, Your Honor. I mean, our
11 hope would be we can keep Thursday because of our specific
12 scheduling issues, but I will address that with the Court.

13 THE COURT: Okay.

14 MR. PAULSEN: Thank you, Your Honor.

15 MR. FRISCH: And one last thing, just so I
16 understand. The proposal is that we start, apart from the 10
17 or 12 who we saw yesterday, the idea is to talk first to
18 jurors who have not flagged an issue, see where we are at the
19 end of that process, and if necessary then go to those jurors
20 who have flagged an issue; is that the --

21 THE COURT: That's the proposal, right.

22 I just thought that that would expedite things, or
23 move things along a little more quickly.

24 MR. FRISCH: Is it okay if we step out into the hall
25 and talk about it?

1 THE COURT: Absolutely. Absolutely.

2 (A recess was taken at 10:04 a.m.)

3 THE COURT: Ready?

4 MR. FRISCH: Thank you for allowing us to take a few
5 minutes.

6 Here are my thoughts. As much as I appreciate the
7 Court's interest in efficiency and alacrity, I don't think
8 it's a good idea.

9 I think the distinction, based on the information we
10 have, is somewhat meaningless. We don't know what's on the
11 minds of these jurors, who did or did not have issues or say
12 they had issues.

13 There are so many variables in what the issue could
14 be. It could be nothing. It could be something. It could be
15 that people who think they do not have issues actually have
16 issues. And there's just too many variables.

17 Even standing out in the hall, completely to think
18 it through and know what we might be getting ourselves into
19 which proceeding that in way. I also don't know that it would
20 be that great a savings of time, because this is inherently a
21 cumbersome and time-consuming process.

22 So even if we save time, and I'm not sure that we
23 ultimately would, I'm not sure we're saving that much time to
24 make it worth the while.

25 As I said before, you know, having done this a few

1 times before, Your Honor obviously has as well, this is not a
2 science, but I'm really reluctant to upset the karma.

3 If this is the order we have, I don't want to mess
4 with it. And I certainly don't want to mess with it based on
5 what it seems to me, given the state of our knowledge right
6 now, kind of an arbitrary variable. We really don't know.

7 And so my gut tells me that we should -- two things,
8 and then I'll stop. Thank you for letting me ramble on. That
9 we should stick with the order, number one. And number two, I
10 think it's a black box and I think we shouldn't go there.

11 MR. PAULSEN: Your Honor, we're fine with that. I
12 think it's probably best for us just to get started.

13 THE COURT: Okay, I think you're right.

14 All right, we'll stick with the order. And we'll
15 stick with the March 20th through the 31st? I think that's
16 what Judge Garaufis' law clerk said that --

17 MR. PAULSEN: Your Honor, just given that the
18 government will, at 3:15, I think, ask that we keep the trial
19 as scheduled, which we just would appreciate if you can make
20 clear that it could still start on Thursday, because that's
21 something at least we're at least going to ask for.

22 THE COURT: Okay.

23 All right why don't you bring in Ms. Marcus, juror
24 Number 1.

25 MR. PAULSEN: And, Your Honor, for the purposes of

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1 today's *voir dire*, Mr. Gullotta is going to speak for the
2 government.

3 THE COURT: Okay.

4 (Prospective juror enters the courtroom.)

5 THE COURT: Good morning, Ms. Marcus.

6 THE PROSPECTIVE JUROR: Good morning.

7 THE COURT: Yesterday you expressed some concerns
8 about scheduling in the ceremonial courtroom, and I wanted to
9 speak with you with the parties about a potential development
10 in the case.

11 Judge Garaufis is contemplating changing the trial
12 from starting on this Thursday to starting on Monday the 20th
13 and going until no later than Friday, the 31st, I believe it
14 is. So it will be no more than a two-week trial starting on
15 the 20th.

16 If that were to happen, it would take care of the
17 concern that you raised with me about your travel plans this
18 Friday.

19 But would it present any additional problems for you
20 other than -- other than your required hours for your
21 internship and your work, the childcare work issue that you
22 had?

23 THE PROSPECTIVE JUROR: Well, I mean it would pose
24 hardship on the child that I care for because his parents need
25 to go to work and it would be hard. He's not even two yet and

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1 they would have to find someone who is not much notice and I
2 am their -- the child's like second caregiver when the parents
3 go to work. So it's kind of a hardship on them to not have me
4 here these days. I'm usually with him Mondays, Tuesdays and
5 Wednesdays.

6 THE COURT: Okay. Other than that, no? No issues?

7 THE PROSPECTIVE JUROR: Well, if I also had to miss
8 like -- I know you're saying it would be like --

9 THE COURT: Two Thursdays and Fridays, potentially.
10 More likely just one, though --

11 THE PROSPECTIVE JUROR: Yeah, that will be --

12 THE COURT: -- when do you your internship hours.

13 THE PROSPECTIVE JUROR: It would be 36 hours that I
14 would be missing, and I'd have to -- I'm hoping to start grad
15 school in like the end of August, and I have to meet August
16 graduation. And if I don't have my hours, I can't go to
17 graduation in August and I don't get my degree and can't start
18 grad school in like five days later. I have to -- need these
19 hours, the 36 hours is a lot of hours to miss.

20 THE COURT: I understand. I get it.

21 Okay, thank you.

22 (Prospective juror exits the courtroom.)

23 THE COURT: If you could bring in Mr. Guidetti,
24 Juror Number 3.

25 MR. FRISCH: Your Honor, before the juror walks in,

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1 just to remind Your Honor to ask the jurors about media. I
2 don't know when you want to do that. I wouldn't want to call
3 her back.

4 THE COURT: Thank you. I'm sorry.

5 (Prospective juror enters the courtroom.)

6 THE COURT: Good morning Mr. Guidetti.

7 THE PROSPECTIVE JUROR: Good morning, Your Honor.

8 THE COURT: Since yesterday, have you read, heard,
9 seen anything about this case in the media?

10 THE PROSPECTIVE JUROR: No. Got home rather late,
11 ate something, and went to bed. That was it.

12 THE COURT: Okay. Judge Garaufis is considering to
13 adjusting the trial schedule to start on March 20th, Monday,
14 March 20th, and go until the latest Friday, March 31st.

15 If that schedule were to be changed, I know it would
16 solve your problem with the client meeting.

17 THE PROSPECTIVE JUROR: It would, yes.

18 THE COURT: But would it present any other
19 scheduling issues for you?

20 THE PROSPECTIVE JUROR: So do you think it would go
21 for the full two weeks then, 20th, the 25th and then the
22 following week?

23 THE COURT: Probably not.

24 THE PROSPECTIVE JUROR: Okay.

25 THE COURT: But possibly.

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1 THE PROSPECTIVE JUROR: Okay.

2 I'd say it would be better for me schedule-wise so
3 that I could attend the meeting on Thursday and Friday.

4 But like I said, somebody else can go into my place,
5 it's not a prepaid thing.

6 THE COURT: Hopefully we'll know some time today
7 what it will be.

8 THE PROSPECTIVE JUROR: Okay.

9 THE COURT: And if it changes from what I just told
10 you to something else, we'll have another conversation.

11 THE PROSPECTIVE JUROR: All right.

12 THE COURT: Okay, thank you.

13 THE PROSPECTIVE JUROR: Very good.

14 (Prospective juror exits the courtroom.)

15 THE COURT: If we could have Mr. Wan, Number 5.

16 (Prospective juror enters the courtroom.)

17 THE COURT: Good morning, Mr. Wan.

18 THE PROSPECTIVE JUROR: Hi. Good morning, Your
19 Honor.

20 THE COURT: Since yesterday, have you seen, heard,
21 or read anything about this case in the media?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Judge Garaufis is considering adjusting
24 the trial schedule. So the trial would start on Monday,
25 March 20th, and last until Friday, March 31st, at the very

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1 latest.

2 If that were to happen, would that present a problem
3 for you?

4 THE PROSPECTIVE JUROR: Not...

5 THE COURT: No.

6 THE PROSPECTIVE JUROR: Not exactly.

7 THE COURT: Okay. You would be able to attend that
8 trial then if it were on those dates?

9 THE PROSPECTIVE JUROR: Yes. But summertime might
10 end early?

11 THE COURT: It most likely will end before the 31st,
12 but I cannot guarantee that, so...

13 THE PROSPECTIVE JUROR: Time frame is about two
14 weeks?

15 THE COURT: Yes.

16 THE PROSPECTIVE JUROR: Okay.

17 THE COURT: Two weeks at the worst, more likely a
18 week and a half, but it you could --

19 THE PROSPECTIVE JUROR: Some adjustment with my
20 life.

21 THE COURT: All right.

22 Okay. You'll know by the end of today what it's
23 going to be, but we wanted to make sure that you didn't have,
24 you know, plane tickets to Cabo San Lucas on the 28th and you
25 wanted to keep those. And you don't so you're good.

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1 Thank you Mr. Wan.

2 THE PROSPECTIVE JUROR: That's it?

3 THE COURT: Yes.

4 (Prospective juror exits the courtroom.)

5 (Prospective juror enters the courtroom.)

6 THE COURT: Good morning, Mr. Block, Number 8, Juror
7 Number 8.

8 THE PROSPECTIVE JUROR: Good morning.

9 THE COURT: Mr. Block, since yesterday, have you
10 seen, heard or read anything about this case in the media?

11 THE PROSPECTIVE JUROR: I intentionally avoided all
12 media.

13 THE COURT: Good.

14 Judge Garaufis is considering adjusting the trial
15 schedule. So the trial would start on Monday, March 20th, and
16 last until, at the very latest, Friday, March 31st.

17 If he were to adjust the schedule to that schedule,
18 would that present a significant hardship for you?

19 THE PROSPECTIVE JUROR: More so for my students, not
20 me. In looking over their work and what I've been giving
21 them, half of them are doing it. So we've learned from the
22 pandemic with a body in the classroom we don't get the success
23 rate for our students.

24 So I do believe, though, so it's a hardship on them,
25 not on myself or my conscious.

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1 THE COURT: All right. All right. Thank you.

2 THE PROSPECTIVE JUROR: That's it?

3 THE COURT: Yes.

4 (Prospective juror exits the courtroom.)

5 THE COURT: If we could have Julia Santana, Juror
6 Number 9.

7 (Prospective juror enters the courtroom.)

8 THE COURT: Good morning, Ms. Santana.

9 THE PROSPECTIVE JUROR: Good morning. How are you?

10 THE COURT: I'm doing pretty well.

11 Since yesterday, have you seen, heard or read
12 anything about this case in the media?

13 THE PROSPECTIVE JUROR: No, sir.

14 THE COURT: Judge Garaufis is considering adjusting
15 the trial schedule. So the trial would start on Monday,
16 March 20th, and last until Friday, March 31st, at the very
17 latest, more likely earlier in that week it would end.

18 If he were to adjust the trial to those dates, would
19 that present a significant hardship for you?

20 THE PROSPECTIVE JUROR: No, I just have to arrange
21 an appointment. That's all.

22 THE COURT: And it's something that you can
23 rearrange.

24 THE PROSPECTIVE JUROR: Oh, yes, I can call my
25 doctor.

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1 THE COURT: Okay.

2 All right. Thank you.

3 (Prospective juror exits the courtroom.)

4 (Prospective juror enters the courtroom.)

5 THE COURT: Lisset Puello, Juror Number 13. Good
6 morning.

7 THE PROSPECTIVE JUROR: Good morning.

8 THE COURT: Since yesterday, have you seen, heard or
9 read anything about this case in the media?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Judge Garaufis is considering adjusting
12 the trial schedule. So the trial would start on Monday,
13 March 20th, and last until Friday, March 31st, at the very
14 latest, more likely, though, it would end earlier that week.

15 If he were to change the trial to those dates, would
16 that present a significant hardship for you?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Okay. Thank you.

19 (Prospective juror exits the courtroom.)

20 (Prospective juror enters the courtroom.)

21 THE COURT: Tishmattie Gopal, Juror Number 14. Good
22 morning.

23 THE PROSPECTIVE JUROR: Good morning.

24 THE COURT: Since yesterday, have you seen, heard or
25 read anything about this case in the media?

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: What did you see?

3 THE PROSPECTIVE JUROR: I saw an article online
4 about it. I didn't read it, though. I opened it, but I did
5 not read it.

6 THE COURT: Do you remember the title of the article
7 or what -- where it was from or anything like that?

8 THE PROSPECTIVE JUROR: I can't remember. I don't
9 think I can remember. I think it came from a government
10 website. I'm not too, sure.

11 THE COURT: Okay. I'm going to caution you, you did
12 the right thing, you didn't read it. Continue to do that.

13 If you see anything in the media, it pops up on your
14 phone that looks like it's related to this case, don't read
15 it. It's not evidence. You're not to do any internet
16 research about this, just let -- if you are picked to serve on
17 this jury, the evidence comes in at trial.

18 Judge Garaufis is considering adjusting the trial
19 dates and moving the trial to begin on Monday, March 20th, and
20 conclude no later than Friday, March 31st.

21 If he were to move the trial to those dates, would
22 that present a significant hardship for you?

23 THE PROSPECTIVE JUROR: I don't think so. So far,
24 when I think back, I don't have any scheduled for those days.
25 Because you guys don't do anything on Saturdays and Sundays,

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1 just Monday through Friday?

2 THE COURT: Just Monday through Friday.

3 THE PROSPECTIVE JUROR: I don't think I have any
4 plans that have to be moved. But if something would come up,
5 I would have to let you all know.

6 THE COURT: Yes, before you are selected.

7 So if you -- certainly if you're selected to serve
8 on this jury, you can't schedule something for that period of
9 time. They don't accommodate breaks like that to allow one
10 juror to be absent at any given point.

11 So we're going to keep you in this pool for now.
12 I'll leave the door completely open to you, but something --
13 if you remember, oh, yeah, I have plane tickets on, you know,
14 Thursday, I guess that would be the 30th, then you got to let
15 us know about that.

16 THE PROSPECTIVE JUROR: Okay.

17 THE COURT: All right. But you got to do like
18 sooner rather than later. Don't go and get tickets, because
19 we won't be happy with that. All right?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Any questions that the lawyers suggest
22 for further questioning about Ms. Gopal's viewing a, or at
23 least having an article come up on her feed?

24 MR. GULLOTTA: Yes, I guess, Your Honor, just to ask
25 if there's anything about having seen that article that

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1 affects her ability to be an unbiased juror?

2 THE COURT: Okay.

3 Ms. Gopal, is there anything with you seeing that
4 article and not having read it that would affect your ability
5 to be fair and impartial in this case?

6 THE PROSPECTIVE JUROR: I don't think so, because I
7 saw the name, so I was aware already.

8 I know you said -- when I saw that, I knew and I
9 didn't read it. So I can't recall any information from it.

10 THE COURT: So you can still be fair and impartial
11 in this case?

12 THE PROSPECTIVE JUROR: Yeah, because all I saw was
13 the name, I didn't read it.

14 THE COURT: Okay. Thank you.

15 (Prospective juror exits the courtroom.)

16 THE COURT: If you will ask Mr. McDermott, Number
17 15, to come in.

18 (Prospective juror enters the courtroom.)

19 THE COURT: Charles McDermott, Juror Number 15.
20 Good morning.

21 THE PROSPECTIVE JUROR: Good morning. How are you?

22 THE COURT: Good.

23 Since yesterday, have you seen, heard or read
24 anything in the media about this case?

25 THE PROSPECTIVE JUROR: No.

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1 THE COURT: Judge Garaufis is considering adjusting
2 the trial dates in the case. So the trial would start on
3 Monday, March 20th, and last until Friday, March 31st, at the
4 very latest, but more likely earlier that week.

5 If he were to adjust the trial accordingly, would
6 that present a significant problem for you?

7 Do you have any prepaid travel plans, anything
8 beyond what you already told us?

9 THE PROSPECTIVE JUROR: No, with work I would just
10 have to let them know. But they're aware. They're already
11 aware that I'm involved in this process, but I would just have
12 to inform them of the potential duration.

13 THE COURT: All right. Thank you, Mr. McDermott.

14 (Prospective juror exits the courtroom.)

15 (Prospective juror enters the courtroom.)

16 THE COURT: Valery Rodolico, Juror Number 22. Good
17 morning.

18 THE PROSPECTIVE JUROR: Good morning.

19 THE COURT: Since yesterday, have you seen, heard or
20 read anything about this case in the media?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Judge Garaufis is considering adjusting
23 the trial schedule. So the trial would start on Monday,
24 March 20th, and conclude no later than Friday, March 31st.

25 If he were to adjust the trial to those dates, would

JURY SELECTION

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1 that present a significant hardship for you?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Thank you.

4 (Prospective juror exits the courtroom.)

5 (Prospective juror enters the courtroom.)

6 THE COURT: Good morning. Joseph Kopitz, Juror
7 Number 23.

8 THE PROSPECTIVE JUROR: Good morning.

9 THE COURT: I say that for the court reporter's
10 benefit.

11 Mr. Kopitz, since yesterday, have you seen, heard,
12 or read anything in the media concerning this case?

13 THE PROSPECTIVE JUROR: I have not.

14 THE COURT: Judge Garaufis is considering adjusting
15 the trial schedule. So the trial would start on Monday,
16 March 20th, and end no later than Friday, March 31st, but more
17 likely it would end earlier in that week.

18 If he were to adjust the trial to that schedule,
19 would that present a significant hardship for you?

20 THE PROSPECTIVE JUROR: It would not. It would be
21 easier for me.

22 Can I ask a question?

23 THE COURT: Sure.

24 THE PROSPECTIVE JUROR: If it started on Monday,
25 does that mean that this Thursday and Friday I would not have

JURY SELECTION

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1 to come in, if I was selected?

2 THE COURT: Yes.

3 THE PROSPECTIVE JUROR: Okay.

4 THE COURT: I only hesitate because -- I can almost
5 guarantee, yes. There would be nothing on Thursday and
6 Friday. But he may not move the trial. That's still being
7 discussed.

8 If he does move the trial, he won't be coming in
9 Thursday or Friday. This jury selection is going to be over
10 hopefully today, if not tomorrow.

11 So, yeah, you'd have your Thursday and Friday free.

12 THE PROSPECTIVE JUROR: Well, the reason I say that
13 is because I've got a landscape architect coming over Thursday
14 morning at 9. And even if it's just to being introduced, my
15 partner can take care of everything else, and I can be here by
16 9:30 is okay, but I'd rather have more time. And Friday I've
17 a dentist appointment that can be easily be moved, if I need
18 to; if I don't need to.

19 THE COURT: Yes, I think you did tell us about the
20 landscape architecture. Yes, architect, yesterday.

21 All right. That will be great.

22 All right. I'll send you back into the other room
23 and we're going to talk to some of your colleagues.

24 All right? Thank you.

25 THE PROSPECTIVE JUROR: Okay.

JURY SELECTION

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1 (Prospective juror exits the courtroom.)

2 MR. FRISCH: May I, Judge?

3 THE COURT: Yes.

4 MR. FRISCH: With regard to Juror Number 1, in light
5 of the positive answer regarding media with Juror Number 14, I
6 would ask that she be called back in to be asked that
7 question.

8 And second, because of what she discussed, Juror
9 Number 1, about her schedule and what appeared her anxiety
10 about being away from her commitments, I'd challenge her for
11 cause.

12 MR. GULLOTTA: I don't think that she's expressed a
13 sufficient amount of anxiety to be challenged for cause. I
14 think she's concerned about it, but she said -- she didn't ask
15 to be released or anything like that, I think she's still
16 qualified juror.

17 THE COURT: I'm going to hold that one in the
18 hopper, Mr. Frisch, and not make a ruling at this point.

19 Gennady Rebinin, Juror Number 24, held up his number
20 for Questions 12 and 19.

21 MR. PAULSEN: Your Honor, I did not call, we
22 discussed internally, I wanted to be sure that we had witness
23 unavailability, I didn't want to speak out of turn, so we're
24 trying to figure that out. So hopefully I'll know more and
25 I'll reach out to chambers.

JURY SELECTION

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1 Frankly, Your Honor, though, I was somewhat
2 persuaded by your comment that it's unlikely we would get a
3 hearing before the Court before then.

4 (Prospective juror enters the courtroom.)

5 THE COURT: Gennady Rebinin?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: Juror Number 24. Good morning.

8 THE PROSPECTIVE JUROR: Good morning.

9 THE COURT: Mr. Rebinin, you indicated that you
10 served on a jury before.

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: Can you tell me when that was? Where it
13 was? What type of case? Things like that?

14 THE PROSPECTIVE JUROR: It was a 10, 12 years ago.
15 In the court in downtown Brooklyn.

16 THE COURT: Okay. Was it a criminal case or a civil
17 case?

18 THE PROSPECTIVE JUROR: It was several cases.
19 Couple weeks, it was many cases.

20 THE COURT: Were you -- was it a grand jury?

21 THE PROSPECTIVE JUROR: I'm not sure, maybe.

22 It was several cases. It was one by one.

23 THE COURT: And were you asked to vote on whether to
24 issue indictments in criminal cases?

25 THE PROSPECTIVE JUROR: We were the jury saying,

JURY SELECTION

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1 yes, guilty or no. Something like this.

2 (Continued on the following page.)

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JURY SELECTION

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1 THE COURT: It sounds like there were several cases
2 that you heard.

3 THE PROSPECTIVE JUROR: Yes, several cases. The
4 deputy, attorney deputy.

5 THE COURT: The Assistant District Attorney
6 presented cases to you?

7 THE PROSPECTIVE JUROR: Presented cases, yes.

8 THE COURT: That sounds like a grand jury where you
9 were asked to determine whether an indictment should be issued
10 and charges should be brought against --

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: -- someone. And is that the only time
13 you served on a jury?

14 THE PROSPECTIVE JUROR: Only time.

15 THE COURT: Okay. And I take it you did issue some
16 indictments?

17 THE PROSPECTIVE JUROR: I don't remember. Probably.

18 THE COURT: You also indicated that you or a family
19 member or close friend has a relationship or friendship with a
20 law enforcement officer?

21 THE PROSPECTIVE JUROR: That's right. Yes, my son
22 serve in New York Police Department.

23 THE COURT: How long has he been on the NYPD?

24 THE PROSPECTIVE JUROR: About 20 years or something
25 like that.

JURY SELECTION

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1 THE COURT: Would that affect your ability to be
2 fair and impartial in this case?

3 THE PROSPECTIVE JUROR: I don't think so.

4 THE COURT: The trial -- since yesterday,
5 Mr. Rebinin, have you seen, heard or read anything in the
6 media about this case?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: Judge Garaufis has -- currently, the
9 trial is scheduled to start on Thursday and last until the
10 28th of March, but Judge Garaufis is considering adjusting the
11 trial schedule so that it would start on Monday the 20th and
12 last until Friday, March 31st at the very latest.

13 Assuming -- let's take the whole period. If you
14 would have to serve on a jury from this Thursday, March 16th,
15 until March 31st, would that present a significant hardship
16 for you?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Have you, a family member or close
19 friend ever been charged with a crime, convicted of a crime or
20 been the subject of a criminal investigation?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Have you or any member of your family or
23 close friends ever been a witness to a crime?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Have you, a family member or close

JURY SELECTION

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1 friend ever been a witness in a grand jury investigation or
2 been questioned in any matter by law enforcement officers?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Have you or any member of your family or
5 close friends been the victim of a crime?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Have you, a family member or close
8 friend ever been a party to a legal action or dispute against
9 the United States or any of its agencies or employees?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: This case has received some media
12 attention. Have you ever read, heard or seen anything in the
13 media about this case or about the defendant Douglass Mackey
14 a/k/a Ricky Vaughn?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: This case involves various individuals
17 including the defendant Douglass Mackey who had strong
18 political preferences during the 2016 Presidential election
19 campaign including individuals who supported President Donald
20 Trump and individuals who supported Presidential candidate
21 Hillary Clinton.

22 Do you have strong feelings or opinions related to
23 the 2016 Presidential Election Campaign or to the two
24 candidates during that campaign such that it would overcome
25 your duty to judge the facts in this case fairly and

JURY SELECTION

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1 impartially?

2 THE PROSPECTIVE JUROR: I don't think so, no.

3 THE COURT: Do you have any experience with what you
4 perceived to be deliberately false or misleading information
5 on the internet or social media?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: At trial, you may hear some language
8 that you may find to be offensive. You should not assess that
9 evidence based on whether or not it is offensive but, rather,
10 on whether that evidence tends to prove or disprove the
11 elements of the crime.

12 If you found some evidence to be offensive, would
13 you be able to set aside your feelings and objectively hear
14 and consider the evidence presented and follow the Court's
15 instructions on the law?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Mr. Rebinin, you live in Brooklyn?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: How long?

20 THE PROSPECTIVE JUROR: Twenty, 25 years.

21 THE COURT: Do you own or do you rent your home?

22 THE PROSPECTIVE JUROR: Rent, rent.

23 THE COURT: Do you live with anyone?

24 THE PROSPECTIVE JUROR: Yes, with my wife.

25 THE COURT: What does your wife do for a living?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: She's retired.

2 THE COURT: What did she do when she was working?

3 THE PROSPECTIVE JUROR: She was a sonograph tech,
4 ultrasound tech.

5 THE COURT: Thank you. And do you have any
6 children?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Do they live with you?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: They're grown?

11 THE PROSPECTIVE JUROR: Grown.

12 THE COURT: Okay. What do your children do for a
13 living?

14 THE PROSPECTIVE JUROR: As I said, my son is working
15 for --

16 THE COURT: You already told us, yes.

17 THE PROSPECTIVE JUROR: And daughter, she's studying
18 at Binghamton College.

19 THE COURT: Are you working?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: What do you do for a living?

22 THE PROSPECTIVE JUROR: I have a small business,
23 mechanical, auto business.

24 THE COURT: What is the highest level of education
25 you completed?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: Master's degree.

2 THE COURT: Master's degree?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: In what discipline?

5 THE PROSPECTIVE JUROR: I completed in former Soviet
6 Union, Master's degree was in sport, sport activity.

7 THE COURT: Supports education?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Have you ever served in the military?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Where do you get your news from,
12 newspapers, radio, television, internet, social media, where?

13 THE PROSPECTIVE JUROR: All of them.

14 THE COURT: Are there any particular, like on TV, do
15 you watch any particular news stations?

16 THE PROSPECTIVE JUROR: Yes. I'm listening
17 1010 WINS on the radio, different, different stations. On the
18 internet, I, I have no time for social media. When I'm
19 driving, I'm listening to the radio.

20 THE COURT: Radio?

21 THE PROSPECTIVE JUROR: Most.

22 THE COURT: So you don't use the internet or social
23 media much?

24 THE PROSPECTIVE JUROR: Very, very little.

25 THE COURT: Do you have a Facebook account or a

JURY SELECTION

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1 Twitter account or an Instagram or anything like that?

2 THE PROSPECTIVE JUROR: No, neither of them.

3 THE COURT: Have you -- are you concerned at all
4 about the reliability of information that you find on the
5 internet and social media?

6 THE PROSPECTIVE JUROR: Concern? Sorry, I missed
7 it.

8 THE COURT: Yes. Are you concerned at all about the
9 reliability of information that you may see on social media or
10 the internet?

11 THE PROSPECTIVE JUROR: No, not much.

12 THE COURT: Have you ever been involved in voter
13 education or voter registration or any Get Out the Vote
14 efforts?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Do you have any hobbies?

17 THE PROSPECTIVE JUROR: Sport.

18 THE COURT: Are there any non-news TV shows or radio
19 programs that you regularly watch or listen to?

20 THE PROSPECTIVE JUROR: I like movies, I watch
21 movies. Shows, no, I'm not doing much shows.

22 THE COURT: Is there any reason why you cannot be
23 fair and impartial in this case?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Is there anything about this case that

JURY SELECTION

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1 would cause you to favor one side over the other?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Will you be able to set aside any
4 sympathies or biases you may have for any of the parties in
5 this case and render an impartial verdict based solely on the
6 evidence presented in court and the instructions on the law
7 that the judge gives you?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Any additional questions for
10 Mr. Rebinin?

11 MR. GULLOTTA: Not from the government, no.

12 MR. FRISCH: Not from Mr. Mackey, no, Judge.

13 THE COURT: Okay. Mr. Rebinin, if you would, if you
14 have your juror number with you, you can take it back and
15 they're going to take you into another courtroom. Thank you.

16 (Prospective juror leaves.)

17 THE COURT: Our next juror, Jackie Mak, Number 25,
18 appears not to have raised his card.

19 (Prospective juror enters.)

20 THE COURT: Thank you, Mr. Mak.

21 THE PROSPECTIVE JUROR: Hi.

22 THE COURT: If I'm not mistaken, Mr. Mak, you did
23 not raise your juror number yesterday in the big room.

24 THE PROSPECTIVE JUROR: No, I did not.

25 THE COURT: Okay. Mr. Mak, the trial schedule is

JURY SELECTION

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1 somewhat unclear right now. Judge Garaufis is considering
2 moving it to a little bit later to start perhaps on the 20th
3 of March which is Monday and conclude on the 31st of March,
4 Friday, at the very latest. Originally, it was supposed to
5 start on the 17th, this Thursday, and go until the 28th.

6 Let's assume that whole period, the 17th of March
7 through the 31st at the very latest, if the trial were to be
8 held sometime within there, would that present a significant
9 hardship for you?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Tell me why.

12 THE PROSPECTIVE JUROR: It would put me away from
13 work and I need to work to pay my bills.

14 THE COURT: What do you do for a living?

15 THE PROSPECTIVE JUROR: I'm a freelancer so I do
16 photography but right now, I'm contracted with a company,
17 Stetson Worldwide. I'm contracted as an archivist and I work
18 Monday to Fridays and that's mainly what helps pay my bills.

19 THE COURT: Where do you live? You live in
20 Brooklyn?

21 THE PROSPECTIVE JUROR: Yes, I'm in Brooklyn.

22 THE COURT: Do you live with anyone else?

23 THE PROSPECTIVE JUROR: Yes, I live with my parents.

24 THE COURT: What do they do for a living?

25 THE PROSPECTIVE JUROR: My dad is retired and my

JURY SELECTION

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1 mother, she's like a home care for --

2 THE COURT: Home health aide?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Anyone else live with you?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: What is the highest level of education
7 you received?

8 THE PROSPECTIVE JUROR: I have a BFA, Bachelor of
9 Fine Arts.

10 THE COURT: And not married, no children?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Have you ever served in the military?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Where do you get your news from,
15 newspapers, radio, television, internet, social media,
16 podcasts?

17 THE PROSPECTIVE JUROR: Mainly social media now.

18 THE COURT: What social media platforms do you use
19 and how frequently?

20 THE PROSPECTIVE JUROR: I guess Instagram and
21 Twitter.

22 THE COURT: Do you have a Facebook account?

23 THE PROSPECTIVE JUROR: Not active.

24 THE COURT: All right. How often are you on
25 Instagram and Twitter?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: I guess every day, more so
2 Instagram since that's how I show my work.

3 THE COURT: Are you concerned about the reliability
4 of the information that you find on the internet and social
5 media?

6 THE PROSPECTIVE JUROR: I'm sorry. Can you repeat
7 that?

8 THE COURT: Yes. Are you concerned about the
9 reliability of information that you find on the internet and
10 social media?

11 THE PROSPECTIVE JUROR: How so? What do you mean by
12 reliability?

13 THE COURT: Concern that it's not accurate
14 information, it's false, it's misleading, things like that.

15 THE PROSPECTIVE JUROR: Yes, I know some of the
16 stuff is false but you just kind of have to filter it out on
17 your own.

18 THE COURT: So it doesn't really concern you much?
19 I'm not saying that it should. I'm just asking.

20 THE PROSPECTIVE JUROR: I guess not. I mean, yes,
21 it's bad but...

22 THE COURT: But you learn how to filter it out, the
23 false stuff?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Fair enough. Have you ever been

JURY SELECTION

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1 involved in voter education or voter registration or Get Out
2 the Vote efforts?

3 THE PROSPECTIVE JUROR: Get Out the Vote efforts?

4 THE COURT: Yes, like picking people up to take them
5 to vote, registering people to vote. There are groups and
6 organizations that do that and they're usually volunteer,
7 those types of efforts. No?

8 THE PROSPECTIVE JUROR: I'm not familiar with it.

9 THE COURT: Do you have any hobbies other than
10 photography maybe?

11 THE PROSPECTIVE JUROR: Photography, videography,
12 basketball.

13 THE COURT: Okay. What television shows or radio
14 programs, if any, do you regularly watch or listen to?

15 THE PROSPECTIVE JUROR: I like to watch Knicks
16 games.

17 THE COURT: Did you see the game against the Lakers
18 they had recently?

19 THE PROSPECTIVE JUROR: Yes, I did.

20 THE COURT: Good game, right?

21 THE PROSPECTIVE JUROR: A very close game.

22 THE COURT: Let me ask you a couple more questions.

23 Have you, a family member or close friend ever been
24 charged with a crime, convicted of a crime or been the subject
25 of a criminal investigation?

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1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Have you or any member of your family or
3 close friends ever been a witness to a crime?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Have you, a family member or close
6 friend ever been a witness in a grand jury investigation or
7 been questioned in any matter by law enforcement officers?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Have you or any member of your family or
10 close friends been the victim of a crime?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Have you, a family member or close
13 friend ever been a party to a legal action or had a dispute
14 against the United States or any of its agencies or employees?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: This case has received some degree of
17 media attention. Have you read, heard or seen anything in the
18 media about this case or about the defendant Douglass Mackey,
19 a/k/a Ricky Vaughn?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: This case involves individuals including
22 the defendant, Douglass Mackey, who had strong political
23 preferences during the 2016 Presidential Election Campaign,
24 including individuals who supported President Donald Trump and
25 individuals who supported Presidential candidate Hillary

JURY SELECTION

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1 Clinton.

2 Do you have strong feelings or opinions related to
3 the 2016 Presidential Election Campaign or to the two
4 candidates during that campaign such that it would overcome
5 your duty to judge the facts in this case impartially and
6 fairly?

7 THE PROSPECTIVE JUROR: I don't really care about
8 that campaign. I'm sorry.

9 THE COURT: Okay. Do you have any experience with
10 what you perceived to be deliberately false or misleading
11 information on the internet or on social media?

12 THE PROSPECTIVE JUROR: Sorry. Could you repeat
13 that?

14 THE COURT: Sure. Do you have any experience with
15 what you perceived to be deliberately false or misleading
16 information on the internet or social media?

17 THE PROSPECTIVE JUROR: I wouldn't say any
18 experience.

19 THE COURT: Okay. At trial, you may hear some
20 language that you may find to be offensive. You shouldn't
21 assess that evidence based on whether you find it to be
22 offensive or not but, rather, on whether that evidence tends
23 to prove or disprove the elements of the crime.

24 If you found some of the evidence offensive, would
25 you be able to set aside your feelings about it and

JURY SELECTION

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1 objectively hear and consider the evidence and follow the
2 court's instructions on the law?

3 THE PROSPECTIVE JUROR: If I found it offensive?

4 THE COURT: Yes.

5 THE PROSPECTIVE JUROR: I'm not sure. I don't know
6 how to answer that.

7 THE COURT: If you found particular words in the
8 evidence that were offensive words, would you be able to put
9 aside the fact that it's offensive and objectively look at it
10 and say, okay, does this evidence prove or disprove the
11 elements of this crime which is what the jurors are sworn to
12 do? They're sworn to hear the evidence, consider it
13 objectively and see if the evidence establishes the elements
14 of the crime and overcomes the presumption of innocence.

15 THE PROSPECTIVE JUROR: I've never been put in that
16 scenario so I'm not sure how I would answer that. Sorry.

17 THE COURT: That's okay. Do you -- any followup for
18 Mr. Mak?

19 MR. GULLOTTA: Nothing from the government.

20 MR. FRISCH: Can I say it from here? It's not going
21 to be controversial.

22 THE COURT: Go ahead.

23 MR. FRISCH: I'm just concerned about his work
24 schedule and his being away from his freelance work and his
25 ability to pay his bills. That's the only thing I would

JURY SELECTION

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1 follow up on.

2 THE COURT: Mr. Mak, do your parents charge you
3 rent?

4 THE PROSPECTIVE JUROR: No, they do not charge me
5 rent.

6 THE COURT: Do you have student loans that you're
7 paying back?

8 THE PROSPECTIVE JUROR: Unfortunately, I do.

9 THE COURT: Okay. This contract that you have with,
10 is it Stetson?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: The hat?

13 THE PROSPECTIVE JUROR: Yes, the hat.

14 THE COURT: You work Monday through Friday for them.
15 Do you go into an office or --

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: And it's their office? It's their
18 place?

19 THE PROSPECTIVE JUROR: Yes, correct.

20 THE COURT: And are you paid by the hour or are you
21 just paid a set salary?

22 THE PROSPECTIVE JUROR: I'm paid by the hour.

23 THE COURT: Okay. All right. If you were serving
24 on this jury, are you going to be preoccupied about thinking
25 about the money that you're losing each hour that you're

JURY SELECTION

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1 sitting on the jury?

2 THE PROSPECTIVE JUROR: Pretty much.

3 THE COURT: All right. Okay. I'll excuse you from
4 serving on the jury, Mr. Mak. You can go to the Central Jury
5 Room and they'll give you further instructions.

6 THE PROSPECTIVE JUROR: Thank you.

7 (Prospective juror excused.)

8 THE COURT: McKinley J. Seyda, Juror Number 26, only
9 answered affirmatively to question number 12.

10 (Prospective juror enters.)

11 THE COURT: Mr. Seyda?

12 THE PROSPECTIVE JUROR: How are you?

13 THE COURT: Good morning. Did I pronounce that
14 correctly?

15 THE PROSPECTIVE JUROR: Yes, you did.

16 THE COURT: You indicated that you served on a jury
17 before?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: Can you tell me what it was about, where
20 it was?

21 THE PROSPECTIVE JUROR: It was in Supreme Court. It
22 was a medical malpractice lawsuit, a case of a patient against
23 a doctor.

24 THE COURT: Did you reach a verdict?

25 THE PROSPECTIVE JUROR: We reached a verdict of

JURY SELECTION

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1 guilty.

2 THE COURT: Okay. You found for the plaintiff?

3 THE PROSPECTIVE JUROR: We found for the plaintiff,
4 yes.

5 THE COURT: Okay. All right.

6 THE PROSPECTIVE JUROR: It was a civil lawsuit.

7 THE COURT: Since last night, have you, or ever,
8 have you seen, heard or read anything on the internet, social
9 media, media, more broadly, newspapers, TV, anything about
10 this case?

11 THE PROSPECTIVE JUROR: No, I haven't honestly.

12 THE COURT: Have you, a family member or close
13 friend ever been charged with a crime, convicted of a crime or
14 been the subject of a criminal investigation?

15 THE PROSPECTIVE JUROR: Not at all, no.

16 THE COURT: Have you or any member of your family or
17 close friends ever been a witness to a crime?

18 THE PROSPECTIVE JUROR: Not that I know of, no.

19 THE COURT: Have you, a family member or close
20 friend ever been a witness in a grand jury investigation or
21 been questioned in any manner by law enforcement officers?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Have you, a member of your family or
24 close friends ever been the victim of a crime?

25 THE PROSPECTIVE JUROR: No.

JURY SELECTION

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1 THE COURT: Have you, a member of your family or
2 close friends ever been a party to a legal action or had a
3 dispute against the United States or any of its agencies or
4 employees?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: I already asked you this but I'll ask
7 again because it's on my list of questions. Have you ever
8 read anything or seen anything or heard anything about this
9 case before?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Okay. This case involves individuals
12 including the defendant, Douglass Mackey, who had strong
13 political preferences during the 2016 Presidential election
14 campaign including individuals who supported President Donald
15 Trump and individuals who supported Presidential candidate
16 Hillary Clinton.

17 Do you have strong feelings or opinions related to
18 the 2016 Presidential election campaign or to the two
19 candidates during that campaign such that it would overcome
20 your duty to judge this case fairly and impartially?

21 THE PROSPECTIVE JUROR: I don't think so, no.

22 THE COURT: Do you have any experience with what you
23 perceive to be deliberately false or misleading information on
24 the internet or social media?

25 THE PROSPECTIVE JUROR: Can you, can you repeat that

JURY SELECTION

223

1 or rephrase it?

2 THE COURT: A lot of people ask for that question to
3 be rephrased. It's kind of long.

4 Do you have any experience with what you perceived
5 to be deliberately false or misleading information on the
6 internet or social media?

7 THE PROSPECTIVE JUROR: I guess, yes, those things
8 you see on Facebook and Twitter that in my mind could be
9 deliberately misleading, but that's my mind and not whether
10 they are or not.

11 THE COURT: Would you be able to or would your
12 experiences seeing such information affect your ability to be
13 fair and impartial in this case?

14 THE PROSPECTIVE JUROR: I don't think so.

15 THE COURT: At trial, you may hear some language
16 that you may find to be offensive. You shouldn't assess that
17 based on whether you find it to be offensive or not. You
18 should assess the evidence to find if it proves or disproves
19 the elements of the crime.

20 If you found some evidence to be offensive, would
21 you be able to set aside your feelings about it and
22 objectively hear and consider and follow the Court's
23 instructions on the law?

24 THE PROSPECTIVE JUROR: I think so.

25 THE COURT: You live in Bay Shore?

JURY SELECTION

224

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: How long have you lived there?

3 THE PROSPECTIVE JUROR: In that house, 17 years.

4 THE COURT: Prior to that, did you live someplace
5 else in Bay Shore?

6 THE PROSPECTIVE JUROR: I lived in Commack, but I've
7 lived in the general area for 35 years.

8 THE COURT: Do you rent or do you own your home?

9 THE PROSPECTIVE JUROR: I own.

10 THE COURT: Do you live with anyone?

11 THE PROSPECTIVE JUROR: My wife and four kids.

12 THE COURT: How old are your kids?

13 THE PROSPECTIVE JUROR: Fourteen, 13, 12 and 10.

14 THE COURT: What does your wife do for a living?

15 THE PROSPECTIVE JUROR: Teacher's assistant.

16 THE COURT: What do you do for a living?

17 THE PROSPECTIVE JUROR: I'm a manager of a building
18 supply company.

19 THE COURT: What's the highest level of education
20 you received or you completed?

21 THE PROSPECTIVE JUROR: Well, I completed my
22 Associate's degree at Suffolk Community College. I also have
23 two years at Stony Brook University toward a degree there.

24 THE COURT: Have you ever served in the military?

25 THE PROSPECTIVE JUROR: No.

JURY SELECTION

225

1 THE COURT: Where do you get your news from,
2 newspapers, radio, television, internet, social media,
3 podcasts or other sources?

4 THE PROSPECTIVE JUROR: Social media sometimes but I
5 try to avoid the news how it's been lately. It's so jaded
6 lately. There's no middle ground for news. So local news and
7 my wife and kids.

8 THE COURT: On those rare occasions that you do seek
9 out news from the TV, radio or anything, are there any
10 particular channels or stations that you go to?

11 THE PROSPECTIVE JUROR: Channel 12 News is our local
12 station so mostly there so I can see the current times.
13 Sometimes Twitter because I can kind of pick and choose what
14 you want to listen to or see so you don't have to see or hear
15 everything.

16 THE COURT: Other than Twitter, are there any social
17 media platforms that you frequent?

18 THE PROSPECTIVE JUROR: Facebook and Instagram to
19 share stuff about my family and kids and their life so those
20 two.

21 THE COURT: What is your frequency of social media
22 use, daily, weekly, monthly?

23 THE PROSPECTIVE JUROR: I'd say daily.

24 THE COURT: Are you concerned at all about the
25 reliability of information that you find on the internet and

JURY SELECTION

226

1 social media?

2 THE PROSPECTIVE JUROR: Yes. Yes. I mean you
3 can't, I don't think you can trust everything you see on it
4 because like I say, things lean one way or the other.

5 THE COURT: This case involves allegations of
6 distributing false and misleading information on social media
7 and the internet. Given your feelings, your concern about the
8 reliability of information that you find on those, on those
9 sources and internet and social media, can you be fair and
10 impartial in this case?

11 THE PROSPECTIVE JUROR: I think so.

12 THE COURT: Have you ever been involved in voter
13 education or registration or any Get Out the Vote efforts?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Do you have any hobbies?

16 THE PROSPECTIVE JUROR: Sports, camping and hiking,
17 kayaking.

18 THE COURT: Other than or maybe in addition to news
19 programs, are there any television shows or radio programs
20 that you regularly watch or listen to?

21 THE PROSPECTIVE JUROR: ESPN, the basic regular
22 sports morning shows. Other than that, "American Idol" with
23 the kids but with four kids and a job, it's tough to watch any
24 shows now. I used to watch a lot more before the four kids.

25 THE COURT: Is there any reason why you cannot be

JURY SELECTION

227

1 fair and impartial in this case?

2 THE PROSPECTIVE JUROR: I don't think so. I think I
3 can be fair.

4 THE COURT: Is there anything about this case that
5 would cause you to favor one side over the other?

6 THE PROSPECTIVE JUROR: I don't see any.

7 THE COURT: Will you be able to set aside any
8 sympathies or biases you may have for any of the parties in
9 this case and render an impartial verdict based solely on the
10 evidence presented in court and the law as given to you by
11 Judge Garaufis?

12 THE PROSPECTIVE JUROR: I think so.

13 THE COURT: Any followup questions for Mr. Seyda?

14 MR. GULLOTTA: Not from the government. Thank you.

15 MR. FRISCH: No, Judge. Thank you.

16 THE COURT: All right. Mr. Seyda, they are going to
17 escort you into another courtroom and you'll wait --

18 THE PROSPECTIVE JUROR: Okay.

19 THE COURT: -- at least for the lunch break because
20 we're going to go after lunch.

21 THE PROSPECTIVE JUROR: That is quite all right.
22 It's an hour and a half to get here so I'm here now.

23 THE COURT: Thank you.

24 THE PROSPECTIVE JUROR: Thank you.

25 (Prospective juror exits.)

JURY SELECTION

228

1 MR. FRISCH: Judge, can we take a really quick
2 bathroom break?

3 THE COURT: Sure. Just whenever you need it, let me
4 know.

5 MR. FRISCH: Okay. Thank you, Judge.

6 (Recess taken.)

7 (Continued on next page.)

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JURY SELECTION

229

1 THE COURT: My count is 12 qualified.

2 (Prospective juror enters.)

3 THE COURT: Good morning. Alyssa Miller, Juror No.
4 27, welcome. Ms. Miller, if I am not mistaken, you say you
5 have close friends or relatives who are lawyers, work for
6 lawyers or work for a judge or in a courthouse and you or a
7 family member, close friend worked for or applied for
8 employment in law enforcement?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Can you tell me about both of those
11 things, please?

12 THE PROSPECTIVE JUROR: Yes, of course. I was in a
13 relationship with someone in law enforcement. I have an uncle
14 who is retired now but he was in law enforcement and about
15 three close friends in NYPD. I have a close friend who is a
16 lawyer and I have a close friend whose father is a lawyer who
17 I see regularly.

18 THE COURT: A couple of follow up things with that.
19 You may have learned through your relationships with these
20 people a little bit or a lot a bit about the law, maybe, and
21 that's okay, but in this case you have to apply the law that
22 the judge gives to you at the end of the case. He'll tell you
23 what the legal standards are that apply to this case and you
24 have to apply that whether you agree with it or not, whether
25 you've learned something different from someone else. The

JURY SELECTION

230

1 question is, can you could that; can you take the law from
2 Judge Garaufis and apply it to the facts that you find as a
3 juror?

4 THE PROSPECTIVE JUROR: I would find it hard not to
5 side with -- since my relationship with --

6 THE COURT: That is the second -- that's the second
7 question. If Judge Garaufis tells you the law is X, can you
8 apply X even if you learned from your friend that he thinks
9 the law is different?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: So you would go with what your friend
12 said and not with what Judge Garaufis said?

13 THE PROSPECTIVE JUROR: I find it hard not to listen
14 to my friend, so -- I'm not confident that I wouldn't be able
15 to.

16 THE COURT: The second question I think you started
17 to answer is, given your relationships with these people who
18 may be in law enforcement, can you be fair and impartial in
19 this case?

20 THE PROSPECTIVE JUROR: I don't think so, no.

21 THE COURT: Okay, Ms. Miller, I will excuse you.
22 You can go to the Central Jury Room and they'll give you more
23 instructions. Thank you.

24 (Prospective juror exits.)

25 (Prospective juror enters.)

JURY SELECTION

231

1 THE COURT: Good morning, Julia Klepadlo, Juror No.
2 28. Good morning. Ms. Klepadlo, you indicated that you have
3 prepaid vacation plans or confirmed medical appointments over
4 the next two weeks?

5 THE DEFENDANT: Yes.

6 THE COURT: Can you tell me about that, please?

7 THE PROSPECTIVE JUROR: On Thursday I'm leaving to
8 go to Montana. I can give you a copy of my tickets.

9 THE COURT: When?

10 PROSPECTIVE JUROR: Until this Sunday.

11 THE COURT: So you'll be back Sun?

12 THE PROSPECTIVE JUROR: Yeah.

13 THE COURT: The trial -- I told you before will the
14 trial was going to start on the 17th and go to the 28th.
15 Judge Garaufis is considering adjusting the trial schedule to
16 start on the 20th and go to the 31st at the latest, but most
17 likely earlier that week. If that were the schedule that
18 would not conflict with your travel plans.

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: Would it -- other than the travel plans,
21 does the trial schedule present a genuine hardship for you,
22 any other reason?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Are you going skiing?

25 THE PROSPECTIVE JUROR: Yes.

JURY SELECTION

232

1 THE COURT: You indicated also that you have taken,
2 you either have a background in or have taken courses in the
3 law. Can you tell me about that?

4 THE PROSPECTIVE JUROR: I've only taken business law
5 because I'm a business major so that's the only background
6 that I have, yeah.

7 THE COURT: Whenever someone indicates that they
8 have some background in the law I ask a couple of questions.
9 One of them is probably not pertinent to you because your
10 background is not in the criminal law and this case is about
11 criminal law, but you may have learned something about the law
12 that -- and that's great, but you have to judge this case
13 based on the law that's given to you by Judge Garaufis and if
14 the law that he gives you conflicts with something you may
15 have learned you have to apply his law and not what you
16 learned in a class or from a friend or in your research. Can
17 you apply the law that Judge Garaufis gives you?

18 THE PROSPECTIVE JUROR: I think that my previous
19 knowledge might contradict with that.

20 THE COURT: Let's say it does. Can you put aside
21 your previous knowledge and apply the law that he gives you
22 because he is the judge, he is the one who is the arbiter of
23 what the applicable law is in this case?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Can you do that?

JURY SELECTION

233

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: And you indicated that you have also
3 close friends and relatives who are lawyers or worked for
4 lawyers or worked for a judge or in a courthouse. Tell me
5 about that.

6 THE PROSPECTIVE JUROR: One of my close friends is a
7 paralegal, so.

8 THE COURT: Do you know what firm or for whom she
9 works, or he?

10 THE PROSPECTIVE JUROR: I don't know exactly, I just
11 know it's a smaller firm in lower Manhattan.

12 THE COURT: Do you know what type of law they
13 practice?

14 THE PROSPECTIVE JUROR: Injury, I'm not too sure but
15 I think it's injury.

16 THE COURT: Okay. Personal injury. Other than that
17 person, anyone else?

18 PROSPECTIVE JUROR: No.

19 THE COURT: You indicated also that you a family
20 member, a close friend has or relationships or close
21 friendships with federal or local law enforcement officers.
22 Can you tell me a little bit about that?

23 THE PROSPECTIVE JUROR: I have a couple of family
24 members in NYPD.

25 THE COURT: Currently?

JURY SELECTION

234

1 THE PROSPECTIVE JUROR: Yeah.

2 THE COURT: Are you close with them.

3 THE PROSPECTIVE JUROR: Yeah, fairly close.

4 THE COURT: Your relationships with these family
5 members who are in the NYPD, will that affect your ability to
6 be fair and impartial in this case?

7 THE PROSPECTIVE JUROR: I don't think so.

8 THE COURT: Have you, a family member or close
9 friend ever been charged with a crime, convicted of a crime or
10 been the subject of a criminal investigation?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Have you or any member of your family or
13 close friends ever been a witness to a crime?

14 THE PROSPECTIVE JUROR: I don't think so.

15 THE COURT: Have you, a family member or close
16 friend ever been a witness in a grand jury investigation or
17 been questioned in any matter by law enforcement officers.

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Have you or any member of your family or
20 close friends ever been the victim of a crime.

21 THE PROSPECTIVE JUROR: Robbery.

22 THE COURT: Yourself or someone else?

23 THE PROSPECTIVE JUROR: A close friend.

24 THE COURT: Will that affect your ability to be fair
25 and impartial? This case does not involve robbery.

JURY SELECTION

235

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Have you a family member or close friend
3 ever been a party to a legal action against or dispute with
4 the United States Government, its agencies or employees?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Now this case has received some degree
7 of media attention. Have you read, heard or seen anything in
8 the media about this case or about the defendant, Douglas
9 Mackey otherwise known as Ricky Vaughn?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: This case involves various individuals
12 including the defendant Douglas Mackey who had strong
13 political preferences during the 2016 presidential election
14 campaign including individuals who supported President Donald
15 Trump and individuals who supported presidential candidate
16 Hilary Clinton.

17 Do you have strong feelings or opinions related to
18 the 2016 presidential election campaign or to the two
19 candidates during that campaign such that it would overcome
20 your duty to judge the facts in this case impartially and
21 fairly?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: How so? Tell me.

24 THE PROSPECTIVE JUROR: I have a strong political
25 belief on one side and I think that would make me biased in

JURY SELECTION

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1 terms of the case since it's in terms of the election of 2016.

2 THE COURT: You wouldn't be able to put aside your
3 sympathies or biases for either side and be a fair and
4 impartial juror in this case?

5 THE PROSPECTIVE JUROR: I could try my best but I do
6 have a bias against a current political party.

7 THE COURT: I appreciate your honesty Ms. Klepadlo;
8 I sincerely do. We have to be sure that jurors can do more
9 than try; that they think they can be fair and impartial and
10 if you're telling me you're not sure then I don't think this
11 is the right case for you to sit on.

12 THE PROSPECTIVE JUROR: Okay.

13 THE COURT: Are you more than "I can try" or or not?

14 THE PROSPECTIVE JUROR: I just wanted to let you
15 know I have a personal bias, but it's just going to be in the
16 back of my head.

17 THE COURT: Notwithstanding that bias if the
18 Government would present evidence that didn't convince you
19 beyond a reasonable doubt that Mr. Mackey committed this
20 crime, would you be able to render a not-guilty verdict?

21 THE PROSPECTIVE JUROR: If --

22 THE COURT: The Government has the burden of proof
23 to prove beyond a reasonable doubt that Mr. Mackey committed
24 every element of the crime charged. If you sat on this case
25 and looked at the evidence and were not convinced beyond a

JURY SELECTION

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1 reasonable doubt that Mr. Mackey committed each element of the
2 crime, would you have any hesitance to render a not-guilty
3 verdict?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Okay. Flip it over. If the Government
6 presents evidence that satisfies you as a juror beyond a
7 reasonable doubt that Mr. Mackey committed every element of
8 the crime, would you have any hesitance to return a verdict of
9 guilty?

10 THE PROSPECTIVE JUROR: In that case, no.

11 THE COURT: So that's the -- that's what I'm getting
12 at with -- on and you told us you have this bias you didn't
13 tell us which way and that's good, but in what I just
14 presented to you, you seem to be able to overcome any bias
15 that you have and look at the evidence in the case and if it
16 satisfies the burden of proof, great; you find someone guilty.
17 If it doesn't satisfy the burden of proof, you find them not
18 guilty. You are focusing on the evidence and the law and not
19 on your bias. Can you do that?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. Now, at trial you're going to
22 hear -- you may hear some language that you may find to be
23 offensive and in assessing evidence you shouldn't assess it
24 based on whether or not it's offensive but rather on whether
25 that evidence, however offensive it may be, tends to prove or

JURY SELECTION

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1 disprove the elements of the crime. If you found some
2 elements to be offensive, would you be able to set aside your
3 feelings of offensiveness and objectively judge it based on
4 that evidence and whether it satisfies the burden of proof or
5 not?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: You live in Maspeth, yes?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: How long?

10 THE PROSPECTIVE JUROR: 23 years, 22 years.

11 THE COURT: Do you own or do you rent?

12 THE PROSPECTIVE JUROR: I live with my parents.

13 THE COURT: What do your parents do for a living?

14 THE PROSPECTIVE JUROR: My dad is a construction
15 worker and my mom works at the hospital.

16 THE COURT: Does anyone else live with you?

17 THE PROSPECTIVE JUROR: No?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: What do you do for a living?

20 THE PROSPECTIVE JUROR: I recently graduated and
21 started a job at a consulting firm.

22 THE COURT: What do they consult about?

23 THE PROSPECTIVE JUROR: Well, this --

24 THE COURT: What do you do with them specifically?

25 THE PROSPECTIVE JUROR: I'm currently on a project

JURY SELECTION

239

1 with trade settlements with Bank of America.

2 THE COURT: And what's -- what's the highest level
3 of education that you received, is it Bachelor's?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Have you ever served in the military?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Where do you get your news from;
8 newspapers, radio, television, internet, social media
9 podcasts, what?

10 THE PROSPECTIVE JUROR: Podcasts and social media.

11 THE COURT: Tell me about your internet and social
12 media use; what platforms do you use, how do you use them and
13 how frequently?

14 THE PROSPECTIVE JUROR: I try to limit my social
15 media use. I only go on TikTok half an hour a day and then I
16 listen to podcasts. Sometimes YouTube.

17 THE COURT: Do you have Twitter, Instagram or
18 Facebook?

19 PROSPECTIVE JUROR: Twitter.

20 THE COURT: Do you use that frequently?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Daily?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Are you concerned at all about the
25 reliability of information that you find on the internet and

JURY SELECTION

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1 social media?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Given that this case involves
4 allegations of misleading and false information on social
5 media, will you be able to fairly and impartially consider the
6 evidence?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Have you ever been involved in voter
9 education or voter registration or the get out and vote
10 effort?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Do you have any hobbies?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Tell me.

15 PROSPECTIVE JUROR: Snowboarding.

16 THE COURT: Other than snowboarding, other ways you
17 spend your leisure time?

18 THE PROSPECTIVE JUROR: I have a lot of
19 entrepreneurship aspirations, I would say. I like to learn
20 about the stock market.

21 THE COURT: What television shows or radio programs
22 do you regularly watch or listen to?

23 THE PROSPECTIVE JUROR: None.

24 THE COURT: Is there any reason that you can't be
25 fair and impartial in this case?

JURY SELECTION

241

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Is there anything in this case that
3 would cause you to favor one said or the other?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Will you be able to set aside any
6 sympathies or biases you may have for any of the parties in
7 this case and render an impartial verdict based solely on the
8 evidence presented in court and the instructions as given to
9 you by Judge Garaufis?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Any sidebars or follow-up questions.

12 MR. GULLOTTA: Your Honor, I apologize if I just
13 missed this but I don't know if we asked question number 36.
14 Otherwise, the Government has no followup.

15 THE COURT: You are right, Mr. Gullotta.

16 Ms. Klepadlo, do you have any experience with what
17 you perceive to be deliberately false or misleading
18 information on the internet or on social media?

19 THE PROSPECTIVE JUROR: Do I have experience with
20 it? Yes.

21 THE COURT: Would your experiences with such
22 information affect your ability to be fair and impartial in
23 this case?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Just briefly tell me about your -- the

JURY SELECTION

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1 experience where you perceived that there was deliberately
2 false or misleading information on the internet or social
3 media?

4 PROSPECTIVE JUROR: I don't know specifically, but I
5 think on a daily basis I see it every day on social media.

6 THE COURT: False and misleading information?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: But that's not going to affect your
9 ability to be fair and impartial in this case?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Mr. Frisch?

12 MR. FRISCH: May we approach.

13 THE COURT: Okay.

14 (Continued on the next page.)

15 (Sidebar conference.)

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SIDEBAR CONFERENCE

243

1 (The following occurred at sidebar.)

2 MR. GULLOTTA: I don't think you asked the media
3 question, but I may have missed it.

4 MR. FRISCH: She said she list he evens to podcasts.

5 THE COURT: I'll ask it.

6 MR. FRISCH: First I would put the two things
7 together and ask her about false and misleading things on the
8 internet in connection with the 2016 election and then --

9 MR. GULLOTTA: You're asking if she's seen it or if
10 the case contains it?

11 MR. FRISCH: If the case contains it and then
12 depending on the answer to that question I would reask the
13 question you asked earlier that elicited the answer from her
14 about her strong bias. Just see if she would now give a
15 different answer.

16 THE COURT: I want to be clear on what it is you're
17 asking. Do you want me to ask her whether she has seen false
18 and misleading --

19 MR. FRISCH: No, this case is about false and
20 misleading information in connection with the 2016
21 presidential election. Having heard me tell you that that's
22 what the case is about, do you think you would be able to be
23 fair and impartial in assessing that evidence.

24 THE COURT: Okay. And that 's it?

25 MR. FRISCH: Depending on her answer , then let me

SIDEBAR CONFERENCE

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1 go back to the question I asked you before, can you be fair
2 and impartial based on our conversation that you would be
3 biased given that this case involves the 2016 presidential
4 election.

5 MR. GULLOTTA: She didn't say she would be biased.
6 She said she would be fair and impartial. The followup
7 questions brought that out of her. She definitely reflected
8 political bias the beginning, but I think she said she can set
9 it aside.

10 MR. FRISCH: She said she had a strong political
11 bias and the judge asked her some general questions to which
12 she gave good juror answers. All I'm suggesting is we go back
13 and tie the two things together and see what her answer is
14 now.

15 THE COURT: Okay.

16 (End of sidebar conference.)

17 (Continued on the next page.)

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JURY SELECTION

245

1 THE COURT: Ms. Klepadlo, when did you become
2 eligible to vote in -- was it prior to the 2016 election or
3 after?

4 THE PROSPECTIVE JUROR: After.

5 THE COURT: You mentioned that you -- well, this
6 case involves allegedly false and misleading information on
7 the internet or social media concerning the 2016 presidential
8 election campaign. Knowing that and knowing that you have
9 what you said to be strong beliefs about the -- whether -- I
10 don't know if it's the two candidates during that election
11 campaign or the election campaign itself, but knowing that you
12 have strong beliefs about that, can you put aside whatever
13 beliefs you may have and be fair and impartial in judging the
14 evidence presented in court?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: And just to be clear, you have not seen
17 in the media, social media, the internet anything about this
18 case before today?

19 THE PROSPECTIVE JUROR: Not about this specific
20 defendant, no.

21 THE COURT: Have you seen things about allegedly
22 false and misleading information in relation to that
23 presidential campaign not involving this defendant?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Seeing those something themes things in

JURY SELECTION

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1 the media is that going to affect your ability to be fair and
2 impartial?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Anything else.

5 MR. GULLOTTA: No, Your Honor.

6 MR. FRISCH: I have one question. Can I ask it from
7 here?

8 THE COURT: Sure.

9 MR. FRISCH: Can we ask the prospective juror what
10 it is that she saw.

11 THE COURT: Do you recall, Ms. Klepadlo, what it is
12 that you saw about allegedly false and misleading information
13 related to the 2016 presidential campaign?

14 THE PROSPECTIVE JUROR: I saw numerous articles
15 written about voter fraud. I don't know if they were true or
16 not, but that's what I have seen on social media.

17 THE COURT: You are able to put that aside. And you
18 are able to listen to the evidence objectively impartially and
19 listen to Judge Garaufis' instructions and apply the law to
20 the facts as you find them and render a verdict that is
21 impartial and unbiased?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Thank you, Ms. Klepadlo, you can -- they
24 will take you into another courtroom and we're going to
25 continue the process with some of your colleagues. We're

JURY SELECTION

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1 going to probably break at 12:30 for lunch. Thank you.

2 (Prospective juror exits.)

3 MR. FRISCH: Before the next juror comes in, can I
4 be heard on an application?

5 THE COURT: Sure.

6 MR. FRISCH: We don't know if this juror read about
7 this case. She may not recognize the name of the defendant or
8 his Twitter avatar, but she may have read about this case. We
9 don't know. On the record as it stands given that facts I
10 challenge her for cause, on that fact alone I challenge her
11 for cause. If the Court is not inclined to grant that
12 application and at the risk of calling her back, I want to
13 know more about what kind of voter fraud she may have read
14 about because she may have read about this case and the
15 concern is when she is in the jury box and she hears the
16 parties open, it may trigger a recollection where she thinks
17 oh, that's what I've read about, I read about this case and in
18 light of what she described as her strong biases that would be
19 in the back of her mind, we could have a problem.

20 MR. GULLOTTA: I would just add, Your Honor, that
21 she was asked pretty directly if she knew anything about this
22 case or anything about the conduct alleged in the case as you
23 described it. She said no each time. We can call her back
24 and get more details about the voter fraud articles that she
25 saw but she didn't say anything to say that she knew any of

JURY SELECTION

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1 the details that are alleged in the case. Otherwise, I think
2 she's qualified.

3 We do have to get through this process. If we keep
4 calling people in over and over again we're never going to get
5 there, but if it's important we can bring her in and ask her
6 what she saw.

7 THE COURT: All right. Bring her back, please. Of
8 course this was an election that she didn't vote in.

9 (Prospective juror enters.)

10 THE COURT: Thank you for coming back, Ms. Klepadlo.
11 Do you recall anything in specific about the articles that you
12 saw about voter fraud in the 2016 election?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: So you couldn't tell whether -- tell me
15 whether they related to or could you tell me whether they
16 related to the presidential election or some other election in
17 2016, any specifics about what fraud was alleged or found?

18 THE PROSPECTIVE JUROR: I'm pretty sure it was mail
19 fraud for the presidential election.

20 THE COURT: Do you recall if any specific names were
21 mentioned about people who were engaging in that alleged mail
22 fraud or anything like that?

23 THE PROSPECTIVE JUROR: I don't recall.

24 THE COURT: Do you recall whether -- all right, so
25 you don't recall. Nothing in particular beyond there were

JURY SELECTION

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1 allegations of mail fraud in relation to the 2016 presidential
2 elections?

3 THE PROSPECTIVE JUROR: Yeah, nothing else.

4 THE COURT: How long ago was it that you remember
5 seeing these articles?

6 THE PROSPECTIVE JUROR: Back in 2016 and then they
7 came up again during the next election as well.

8 THE COURT: And of course you didn't vote in the
9 2016 election, did you?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Did you vote in the subsequent election?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Thank you, Ms. Klepadlo.

14 (Prospective juror exits.)

15 THE COURT: Let's bring in Stephen Methot. He
16 raised his name to 10 and 17 if I'm not mistaken.

17 (Prospective juror enters.)

18 THE COURT: Hello, is it Methot?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: You indicated that you have prepaid
21 vacation plans or confirmed medical appointments that cannot
22 be moved over the next two weeks?

23 PROSPECTIVE JUROR: Yes, that's right. It's
24 basically the very last day was a Thursday the 27th. Was that
25 the last day of that --

JURY SELECTION

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1 THE COURT: Where are you going?

2 THE PROSPECTIVE JUROR: I'll be in Florida.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: That's the day I'm supposed
5 to leave, so.

6 THE COURT: And you're flying?

7 THE PROSPECTIVE JUROR: Yeah, I'd rather not cancel
8 the trip personally, but if I have to.

9 THE COURT: The 20th is a Monday so the 27th would
10 be the following Monday. You're sure it's the 27th.

11 PROSPECTIVE JUROR: I'm supposed to fly to Florida
12 the last day of this month. That's my plan as it stands right
13 now.

14 THE COURT: That would be the 30th.

15 PROSPECTIVE JUROR: So that would be, like, two
16 weeks which is what they explained to us at the beginning,
17 right.

18 THE COURT: What we explained in the beginning was
19 it would be the 16th through the 28th at the very latest.

20 THE PROSPECTIVE JUROR: Well --

21 THE COURT: Which you would be okay with that if
22 you're leaving on the 30th, but the Judge is considering
23 adjusting the trial schedule to go from the 20th to the 31st
24 at the latest although it's likely it would end before the
25 31st but we don't know for sure and it may put you in

JURY SELECTION

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1 jeopardy.

2 THE PROSPECTIVE JUROR: I understand.

3 THE COURT: So, Mr. Methot, I'm going to take you at
4 your word, you were sworn to tell the truth, the whole truth
5 and I'm sure you have tickets to go to Florida on the 30th and
6 it's too close to call so you're excused.

7 THE PROSPECTIVE JUROR: Thank you, Your Honor.

8 (Prospective juror exits.)

9 THE COURT: Mymy Tran, number 30 only answered yes
10 to question 9, difficulty reading or understanding English.
11 We are up to 13 qualified jurors.

12 (Prospective juror enters.)

13 THE COURT: Good afternoon, Ms. Tran.

14 PROSPECTIVE JUROR: Good afternoon.

15 THE COURT: Ms. Tran, you indicated that you have
16 difficulty reading or understanding English.

17 THE PROSPECTIVE JUROR: A little bit because when I
18 watch TV, I need to turn on the caption and to understand
19 better, yeah.

20 THE COURT: How long have you been in the United
21 States?

22 THE PROSPECTIVE JUROR: Over 30 years.

23 THE COURT: What do you do for a living?

24 THE PROSPECTIVE JUROR: I used to be -- at the
25 beginning I was a bookkeeper and I was promoted to be the

JURY SELECTION

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1 controller. After 20 years, I think when I was --

2 THE COURT: Are you still working?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: You retired?

5 THE PROSPECTIVE JUROR: I retired six years ago.

6 THE COURT: What do you do to keep busy now that
7 you've retired?

8 THE PROSPECTIVE JUROR: Playing mahjong.

9 THE COURT: Ms. Tran, in my experience, most jurors
10 who express some difficulty reading or understanding English.
11 It's not that they don't have sufficient skills or proficiency
12 in English, it's more so a matter of confidence and that when
13 they are selected to serve as jurors they're fine, they do
14 fine.

15 THE PROSPECTIVE JUROR: Oh, really? Because
16 yesterday when you were saying -- at the court, over there,
17 some I understand, some I don't. So I'm -- I don't have
18 confidence as you said.

19 THE COURT: I think you will be fine in this case.
20 I don't believe that there is too much technical jargon or
21 things that you would not understand. So I'm going to ask you
22 to bear with us during this process.

23 THE PROSPECTIVE JUROR: Sure.

24 THE COURT: So, the trial is going to start sometime
25 between March 16th, this Thursday, and conclude no later than

JURY SELECTION

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1 March 31st.

2 THE PROSPECTIVE JUROR: Oh, okay.

3 THE COURT: Would it present a genuine hardship for
4 you to serve on the jury during that period of time?

5 THE PROSPECTIVE JUROR: No. Just that I'm traveling
6 from Long Island, that's it.

7 THE COURT: You live in West Hempstead?

8 THE PROSPECTIVE JUROR: Correct.

9 THE COURT: Our jury pool where we get jurors from
10 stretches from Suffolk County all the way on Long Island to
11 Richmond County in Staten Island and people can be asked to go
12 from one end all the way to the other to serve on jury duty.
13 That's just the nature of it and there's nothing we can do
14 about it. So I think it might be an inconvenience. It's
15 never convenient to serve on jury duty, but I'm going to ask
16 you to bear with us.

17 Have you, a family member or close friend ever been
18 charged with a crime, convicted of a crime or been the subject
19 of a criminal investigation?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Have you or any member of your family or
22 close friends ever been a witness to a crime?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Have you, a family member or/close
25 friend ever been a witness in a grand jury investigation or

JURY SELECTION

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1 been questioned in any matter by law enforcement officers?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Have you or any member of your family or
4 close friends been the victim of a crime?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Have you, a family member or a close
7 friend ever been a party of a legal action or dispute against
8 the United States or any of its agencies or employees?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: This case has received some media
11 attention. Have you read heard or seen anything about this
12 case in the media before or about the defendant Douglas Mackey
13 otherwise known as Ricky Vaughn?

14 THE PROSPECTIVE JUROR: To be honest, I don't turn
15 on the TV at all.

16 THE COURT: What about the internet or social media?

17 THE PROSPECTIVE JUROR: I just watch YouTube and all
18 of those things are Hong Kong news and everything so I don't
19 listen and watch TV that often.

20 THE COURT: Okay. And, so you haven't heard about
21 this case before?

22 THE PROSPECTIVE JUROR: No, yeah.

23 THE COURT: Okay. This case involves various
24 individuals including the defendant Douglas Mackey who had
25 strong political preferences during the 2016 presidential

JURY SELECTION

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1 selection campaign, including individuals who supported
2 President Donald Trump and individuals who supported
3 presidential candidate Hilary Clinton. Do you have any strong
4 feelings or opinions related to the 2016 presidential election
5 campaign or the two candidates during that campaign such that
6 it would overcome your duty to be fair and impartial in this
7 case?

8 THE PROSPECTIVE JUROR: No, not at all. Do you have
9 any experience with what you perceived to be deliberately
10 false or misleading information on the internet or on social
11 media.

12
13 (Continued on the following page.)
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JURY SELECTION

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1 THE COURT: At trial you may hear some language that
2 you may find to be offensive.

3 You should not assess that evidence based on whether
4 it's offensive or not, but based on whether that evidence
5 tends to prove or disprove the elements of the crime.

6 If you find some evidence to be offensive, would you
7 be able to put aside your feelings about it and objectively
8 hear and decide the case based on the evidence and the law
9 from Judge Garaufis?

10 THE PROSPECTIVE JUROR: Yeah.

11 THE COURT: You live in West Hempstead?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: How long?

14 THE PROSPECTIVE JUROR: Over 30 years. Yes.

15 THE COURT: Do you own or do you rent your home?

16 THE PROSPECTIVE JUROR: We owned it, yeah.

17 THE COURT: And since it's "we," I take it you live
18 with someone?

19 THE PROSPECTIVE JUROR: My husband. Yes.

20 THE COURT: What does your husband do for a living?

21 THE PROSPECTIVE JUROR: He's an insurance agent,
22 life insurance and investment, yes.

23 THE COURT: Is he still working?

24 THE PROSPECTIVE JUROR: No, semiretired.

25 THE COURT: Semiretired, all right.

JURY SELECTION

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1 And you've already told us you were a bookkeeper and
2 then comptroller.

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Do you have any kids?

5 THE PROSPECTIVE JUROR: I have two children, yes.

6 THE COURT: How old are they?

7 THE PROSPECTIVE JUROR: One is 31, and my daughter
8 is going to be 37 soon.

9 THE COURT: What do they do for a living?

10 THE PROSPECTIVE JUROR: My son he is a software
11 engineer for AT&T.

12 And my daughter, she's working for marketing. Set
13 up conference, something like that.

14 THE COURT: What the highest level of education that
15 you completed?

16 THE PROSPECTIVE JUROR: Me?

17 THE COURT: Yes.

18 THE PROSPECTIVE JUROR: Only high school.

19 THE COURT: Have you ever served in the military?

20 THE PROSPECTIVE JUROR: No, never.

21 THE COURT: Where do you get your news from?
22 Newspapers? Radio? TV? Internet? Social media? Podcasts?
23 What?

24 THE PROSPECTIVE JUROR: Most of the time I watch
25 YouTube. And sometimes we watch Hong Kong news. From

JURY SELECTION

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1 YouTube, we can turn to the TV and see it, yeah.

2 I seldom watch news at all.

3 THE COURT: Do you, other than YouTube, do you use
4 the internet or social media for anything?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Are you concerned at all about the
7 reliability of information that you find on the internet and
8 social media?

9 THE PROSPECTIVE JUROR: I was told they are not real
10 most of them, so...

11 THE COURT: And you don't watch them any way?

12 THE PROSPECTIVE JUROR: I don't watch it, no.

13 THE COURT: Have you ever been involved in voter
14 education or registration or any "get out the vote" efforts?

15 I'll ask that again.

16 Have you ever been involved in any voter education
17 or voter registration or "get out the vote" efforts?

18 THE PROSPECTIVE JUROR: I don't get this.

19 You and mean I go to vote?

20 THE COURT: No, you go to -- you help people
21 register to vote.

22 THE PROSPECTIVE JUROR: Oh, no.

23 THE COURT: You go and you take them from their
24 homes to the polling place so they can vote.

25 THE PROSPECTIVE JUROR: I haven't been doing things

JURY SELECTION

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1 like that.

2 THE COURT: Do you have any hobbies?

3 THE PROSPECTIVE JUROR: Watching TV. Watching
4 YouTube. And playing mahjong. And gardening.

5 THE COURT: Are there any television shows or radio
6 programs that you regularly watch or listen to?

7 THE PROSPECTIVE JUROR: I watch the Chinese one.

8 They are telling stories about missing children.

9 Missing women in China. So I'm interested in those series.

10 But they are real. They are not drama. They are real
11 stories.

12 THE COURT: And you see that on -- through YouTube?

13 THE PROSPECTIVE JUROR: Yes, almost every day.

14 THE COURT: Is there any reason why you cannot be
15 fair and impartial in this case?

16 THE PROSPECTIVE JUROR: At this -- I have to listen
17 to the whole thing. I don't judge whatever.

18 THE COURT: Okay. And you will listen to the
19 evidence and be fair and impartial when it comes time to
20 consider it?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Is there anything about this case that
23 would cause you to favor one side over the other?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Will you be able to set aside any

JURY SELECTION

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1 sympathies or biases you have for any of the parties in this
2 case and render an impartial verdict -- just listen to the
3 question.

4 Will you be able to set aside any sympathies or
5 biases you may have for one side or the other and render an
6 impartial verdict based solely on the evidence that's
7 presented in court, and the law that's given to you by the
8 district judge?

9 THE PROSPECTIVE JUROR: Yes, I will do that.

10 THE COURT: Okay. Any follow up for Ms. Tran?

11 MR. PAULSEN: No, thank you, Your Honor.

12 MR. FRISCH: No, Judge.

13 THE COURT: All right, Ms. Tran, thank you so much.
14 They're going to take you into another courtroom and you'll
15 wait for a little bit. Okay?

16 THE PROSPECTIVE JUROR: Okay, sure. Thank you.

17 (Prospective juror exits the courtroom.)

18 (Prospective juror enters the courtroom.)

19 THE COURT: Good afternoon, Jesse Zender, Juror
20 Number 31. How you doing?

21 THE PROSPECTIVE JUROR: Good. How are you?

22 THE COURT: Pretty good.

23 I believe Mr. Zender raised his juror number for
24 Questions 12, 17, 18 and 19.

25 Mr. Zender, you indicated that you've served on a

JURY SELECTION

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1 jury before.

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: When? Where? What?

4 THE PROSPECTIVE JUROR: When I was living in the
5 City for a shoplifting case.

6 THE COURT: And it was in Manhattan?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: And you rendered a verdict? Don't tell
9 me what it is, but you rendered a verdict in the case?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: How long was that?

12 THE PROSPECTIVE JUROR: Ten years ago.

13 THE COURT: Then that's the only time you were on a
14 jury?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: You also indicated that you have close
17 friends or relatives who are lawyers, work for lawyers, work
18 for a judge in the courthouse.

19 That you have, you know, the same group of people
20 who either applied for or worked in law enforcement. And that
21 you have close relationships with current people who are in
22 law enforcement.

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Can you tell me about all of that?

25 THE PROSPECTIVE JUROR: Sure.

JURY SELECTION

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1 My father in-law is an attorney. My uncle was in
2 the ATF. I've friends that are ex-NYPD who are now police
3 officers on Long Island. That's really the extent of it.

4 THE COURT: A couple of questions about that.

5 You may have learned from these folks a little bit
6 about the law, or maybe a lot of bit about the law over the
7 years.

8 But you're going to have to put aside what you
9 learned from them and take instructions on the law from
10 Judge Garaufis he is the one who decides what law applies to
11 this particular case. You'd have to utilize that law whether
12 you disagree with it, think it's different, you got to take
13 that law.

14 Can you do that?

15 THE PROSPECTIVE JUROR: Yeah.

16 THE COURT: Second question. Given your
17 relationships with folks in law enforcement, is that going to
18 affect your ability to be fair and impartial in this case?

19 THE PROSPECTIVE JUROR: I don't know. I mean I
20 am -- I didn't raise my hand in the courtroom, but the more
21 that I thought about it, I am somewhat familiar with the case
22 just from, you know, reading newspapers, stuff that's on
23 Twitter. So I mean I am somewhat familiar with...

24 THE COURT: That's a different issue, and we'll talk
25 about that.

JURY SELECTION

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1 But just dealing with your relationships with folks
2 in law enforcement.

3 Will that affect your ability to be fair and
4 impartial in this case?

5 Let's say it was a robbery case.

6 THE PROSPECTIVE JUROR: I don't think so. I don't
7 think it would.

8 THE COURT: All right.

9 So do you recall in specific what you read or saw on
10 Twitter about this case?

11 THE PROSPECTIVE JUROR: I just know that there was
12 an individual on Twitter posting stuff about telling different
13 groups of people to -- instead of actually going to in person
14 to vote, to text in to vote.

15 THE COURT: Okay. And do you recall whether that --
16 those Twitter reports referenced the defendant Douglass
17 Mackey.

18 THE PROSPECTIVE JUROR: I believe it did.

19 THE COURT: Well, that affect your ability to be
20 fair and impartial in this case?

21 THE PROSPECTIVE JUROR: Possibly.

22 You know, it seems to be a bit of a political aspect
23 of this, and I don't know if -- if I will be able to cross
24 party lines. One way or the other. Just being honest with
25 you. It's kind of how I feel.

JURY SELECTION

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1 THE COURT: Well, if the government were to present
2 evidence to you that convinced you beyond a reasonable doubt
3 that Mr. Mackey disseminated false or misleading information
4 through the social media or the internet, such that it
5 constituted all of the elements of the crime that
6 Judge Garaufis will instruct you on, would you be able to
7 return a verdict of guilty?

8 THE PROSPECTIVE JUROR: I mean if the evidence said
9 that, I suppose, or if it said that he was innocent, said that
10 he was innocent.

11 THE COURT: So you would be able to disregard then
12 what you may have seen on Twitter about -- allegations about
13 Mr. Mackey doing whatever was alleged to have been done and
14 focus on what the government puts into evidence and what
15 Mr. Mackey may put into evidence, that's accepted into
16 evidence in court, and consider all of that and judge the
17 case?

18 THE PROSPECTIVE JUROR: Kind of sitting in front of
19 you here, it's easy to say, yes. But when it kind of comes
20 down to it, you know, it's hard to hard to tell.

21 THE COURT: Well, Mr. Zender, we need jurors who --
22 I appreciate your candor telling me it's hard, as you sit here
23 to tell, but we need jurors who are confident that they can.
24 Heard anything about the case before. Have any particular
25 biases they can put all of that aside and say, no, just the

1 facts what's proven in court, and I will be able to render a
2 fair and impartial verdict.

3 And if you're telling me you're not sure that you
4 can do that, then you're probably not the right juror for this
5 case.

6 THE PROSPECTIVE JUROR: Unfortunately. Trying on
7 honest with you.

8 THE COURT: You were sworn, so I hope you're being
9 honest with me.

10 THE PROSPECTIVE JUROR: I am.

11 THE COURT: And it is what is it is. Look, if
12 you're not sure, you're not sure. That's fine.

13 Unless there's an objection from either of the
14 parties, I'm going to excuse Mr. Zender.

15 MR. GULLOTTA: No objection, Your Honor.

16 MR. FRISCH: No objection.

17 THE COURT: Okay, you're excused, Mr. Zender.

18 THE PROSPECTIVE JUROR: Thank you.

19 (Prospective juror exits the courtroom.)

20 THE COURT: Okay, I think we should break for lunch
21 and come back at 1:30. And prepare to be doing this tomorrow.
22 Because we're going to have, I don't know how long it's going
23 to take.

24 (Discussion was had off the record.)

25 THE COURT: The case specific questions, can we --

1 MR. GULLOTTA: To the big group and just maybe go
2 through some of this with the large group, and we can identify
3 whatever the issues are, or perhaps it sounds like I didn't
4 land on what you were thinking about and maybe there's a way
5 to condense the questions a little bit and get through it
6 faster.

7 We're open to all suggestions, and if we can spend
8 the lunch break and work.

9 THE COURT: Well, we actually can use the ceremonial
10 courtroom now because I think naturalizations is over.

11 I had a thought of condensing the prior criminal
12 involvement. Those questions, are they all necessary, number
13 one.

14 And I'm amenable, if there's no objection from
15 Mr. Mackey to -- we can go -- we can take the, what is the
16 four case-specific questions, bring everyone into the
17 ceremonial courtroom, ask them those, see who holds up their
18 notes, and then when we go through the individual questions,
19 those who have issues we can follow up on. We can do it that
20 way.

21 I just thought originally I didn't want people in
22 the case-specific questions to see someone else put up their
23 sign and said oh, yeah, me, too.

24 MR. GULLOTTA: Or feel reluctant to put up a sign.
25 I get it. I'm trying to think it through here on the fly and

1 I don't know if do we need that many? We can bring them back
2 in here one by one.

3 THE COURT: To some degree there may be a few people
4 who don't put -- who don't put up their notes so we don't have
5 to ask them that question privately.

6 MR. FRISCH: I think there's, as much as we all want
7 to move more quickly, I think that -- I think we should just
8 stick with what we're doing. Because I think we move back and
9 forth then it's just going to -- it's not going to expedite
10 things.

11 THE COURT: All right, why don't we break for lunch.

12 There's a juror, Juror Number 101, would like to be
13 excused -- actually she asked to leave early today because her
14 son has his first confession and she wants to go with him.

15 He's not getting into the booth with him, but I mean
16 that's -- it's a big thing. And I'm inclined to let her go.
17 We can just let her go for today and have her come back
18 tomorrow, although we may not get to 101 today.

19 THE COURTROOM DEPUTY: She wanted to leave whatever
20 time we go for lunch.

21 THE COURT: Any objection to letting her go?

22 MR. FRISCH: No, Your Honor.

23 MR. PAULSEN: No, Your Honor.

24 THE COURT: Okay, you can tell her she's excused.
25 And the others I want to keep.

PROCEEDINGS

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1 What about Juror Number 167 who has two kids, the
2 young kids, how old are the kids?

3 THE COURTROOM DEPUTY: I didn't find out how old,
4 but they're minors, they are not school age. They're just
5 child care issues and she asked yesterday and today for
6 someone to watch them.

7 THE COURT: Any objection to letting Juror
8 Number 167 go? She has child care issues with two minor
9 children.

10 MR. FRISCH: No.

11 MR. GULLOTTA: No, Your Honor.

12 THE COURT: She's excused. Tell her privately.

13 And then the hardship. No. Self-employed. No.
14 The others are just going to have to bear with us.

15 So we'll break for lunch. Consider, though -- I
16 mean it might save a few minutes per juror if we condense or
17 dispose of some of the prior criminal involvement questions.
18 If we save like a couple minutes per person that adds up, but
19 I still think we're doing this tomorrow.

20 MR. GULLOTTA: I think so.

21 MR. PAULSEN: Your Honor, at this rate I think it's
22 coming close to 5 p.m. tomorrow. We're not making that much
23 progress still.

24 THE COURT: So it is, what it is.

25 (A recess was taken at 12:36 p.m.)

JURY SELECTION

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1 A F T E R N O O N S E S S I O N

2 (Time noted: 1:35 p.m.)

3 (In open court; Prospective Jury not present.)

4 THE COURT: Let me speak with the parties.

5 So we have received a request from Juror Number 28,
6 Ms. Klepadlo, to be excused just for today at 2 p.m. to attend
7 to a work commitment. Just today and she'll return tomorrow
8 for the remainder of the selection.

9 In light of the, I wouldn't say fact but likelihood,
10 high likelihood that we will not be done today with getting
11 our 36 or 40 prospective jurors, I have no problem with
12 letting her go, to attend to her work commitment with an
13 admonition before she leaves that, you know, with the usual in
14 particular, you know, stay off of the interwebs.

15 Does anybody have a problem with that?

16 MR. BUFORD: No objection from the government, Your
17 Honor.

18 MR. FRISCH: No.

19 THE COURT: Can you ask Ms. Klepadlo to come in?

20 (Prospective juror enters the courtroom.)

21 THE COURT: Good afternoon, Ms. Klepadlo.

22 THE PROSPECTIVE JUROR: Good afternoon.

23 THE COURT: We received your request, and I've got a
24 couple of questions.

25 Number one, did you discuss it with any of the other

JURY SELECTION

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1 prospective jurors?

2 THE PROSPECTIVE JUROR: Me leaving?

3 THE COURT: Yes.

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Okay. And you will attend to this work
6 commitment today, you need to leave at 2, because it's been
7 moved up, from what I hear, and you will return tomorrow for
8 the remainder of the jury selection, yes?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Okay. We will allow that to happen.

11 I want to warn you against speaking with anyone
12 about this case, prospective jurors, anyone. Your family, you
13 can tell them you've been in a selection process. Leave it as
14 innocuous as that.

15 And certainly don't do any internet research,
16 anything like that. Don't look on media, social media, what
17 have you for anything about this case.

18 If you see something, if it comes up on your feed or
19 whatever they call it, don't open it. Don't read it. Ignore
20 it.

21 If you see the parties, the attorneys, tomorrow in
22 the hall or anything, don't talk to them. They will not talk
23 to you. They are not allowed to have any interaction with you
24 outside the courtroom.

25 And if anyone approaches you about this case, you

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1 need to bring that to our attention immediately. Okay?

2 THE PROSPECTIVE JUROR: All right.

3 THE COURT: All right, so we'll see you tomorrow
4 then.

5 THE PROSPECTIVE JUROR: Thank you.

6 What time tomorrow?

7 THE COURT: Come at we started -- 9:30. Be in the
8 central jury room no later than 9:30.

9 THE PROSPECTIVE JUROR: Okay, thank you.

10 THE COURT: Actually, let's make it 9:15.

11 THE PROSPECTIVE JUROR: All right.

12 THE COURT: I want to try to get a little earlier
13 start tomorrow.

14 THE PROSPECTIVE JUROR: Thank you.

15 THE COURT: Thank you.

16 (Prospective juror exits the courtroom.)

17 THE COURT: Are we ready to begin?

18 MR. BUFORD: Your Honor, we have one suggestion for
19 everyone's consideration for the sake of efficiency.

20 Would the Court potentially consider possibly
21 bringing in maybe ten jurors into this room, having one juror
22 sort of get the full set of questions, and then that way
23 everyone else in the room will have heard all of the
24 questions, and that might enable the Court to do a briefer
25 version of the questions with any subsequent jurors to see if

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1 they have any positive answers to them.

2 And obviously if anyone has a reason that they had
3 would like to speak privately about, for example, experience
4 with the criminal justice system we could have a sidebar with
5 that particular juror.

6 THE COURT: What do you think, Mr. Frisch?

7 MR. FRISCH: I oppose it. I think this process is
8 slow, but it's effective. And it's just the nature of the
9 beast.

10 THE COURT: I tend to agree with Mr. Frisch. And
11 the whole purpose for asking -- for isolating prospective
12 jurors and asking them these questions is so that their
13 responses don't infect anyone else. Infect is probably too
14 strong of a word. Influence anyone else. And to cut down on
15 the need for repeated sidebars, because that has its own time
16 element involved.

17 So we're going to continue the way we're going and
18 I'm go to try to.

19 MR. PAULSEN: Understood, Your Honor.

20 THE COURT: So James Mooney is Juror Number 32, he's
21 next. And he only responded affirmatively to Questions 12 and
22 19, if I'm not mistaken.

23 (Prospective juror enters the courtroom.)

24 THE COURT: Good afternoon, Mr. Mooney.

25 THE PROSPECTIVE JUROR: Good afternoon.

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1 THE COURT: You responded that you have had prior
2 jury or grand jury service; is that correct?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Can you tell me about that? Where it
5 was? When? What kind of case?

6 THE PROSPECTIVE JUROR: It was maybe 20 years ago.
7 I've been serving since in the 1970s.

8 We got on a criminal case.

9 THE COURT: Do you remember what type of criminal
10 case?

11 THE PROSPECTIVE JUROR: It had to do with theft
12 inside an auto.

13 THE COURT: And that was in here in Brooklyn?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: And did you reach a verdict in that
16 case?

17 THE PROSPECTIVE JUROR: Yes, we did.

18 THE COURT: Is there anything about that experience
19 that would affect your ability to be fair and impartial in
20 this case?

21 THE PROSPECTIVE JUROR: I don't think so.

22 THE COURT: You also indicated that you have a
23 relationship -- you or a family member or close friend has a
24 relationship or friendship with people in federal or local law
25 enforcement.

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Can you tell me about that?

3 THE PROSPECTIVE JUROR: In my family, I have a lot
4 of police officers and stuff. Past and present. I just
5 attended the wake and the funeral of a 22-year-old officer
6 that committed suicide last week, relationship there with
7 that.

8 And just throughout my family police, people that,
9 you know, we talk about the job a lot and everything. Just I
10 have that presence around me.

11 THE COURT: Okay. You are not an officer or a
12 retired officer?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Okay. Well, two things about that.

15 During your relationships with these folks you may
16 have heard or learned something about what the law is. And
17 that's all well and good, but in this case, were you to sit as
18 a juror, the law comes from Judge Garaufis. He's the one who
19 will tell what you the law is that applies to this case.

20 And you have to apply that law, whether you agree
21 with it or not, whether you think it's what it should be or it
22 should be something else, or whether you learned something
23 about the law from one of your friends or family members.
24 Judge Garaufis is -- the law that he gives you controls.

25 If you were selected, could you do that? Apply his

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1 law?

2 THE PROSPECTIVE JUROR: I would have to, yes.

3 THE COURT: Okay.

4 The second thing about that issue.

5 Is there anything about your relationships with
6 these folks in law enforcement that would affect your ability
7 to be fair and impartial in this case?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: So the trial was -- still is, currently
10 set to begin on Thursday the 17th -- the 16th, I'm sorry,
11 Thursday the 16th, and last until the 28th, at the very
12 latest. We'll know later today whether the judge is going to
13 move the trial a little bit so it starts on the 20th and ends
14 on the 31st.

15 Either way, if it starts on the 16th and ends on the
16 28th, it starts on the 20th ends on the 31st, would it be a
17 genuine hardship for you to serve on the jury?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Have you, a family member or close
20 friend ever been charged with a crime, convicted of a crime or
21 been the subject of a criminal investigation?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Can you tell me about that?

24 THE PROSPECTIVE JUROR: I had a nephew that got in
25 some trouble with gambling. And the FBI picked him up and he

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1 got in trouble with it. Him and a couple of friends or
2 buddies.

3 THE COURT: They were running a card game or
4 something like that?

5 THE PROSPECTIVE JUROR: More or less like booking.

6 THE COURT: Okay. Did that result in him being
7 convicted of something?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Is there anything about that that would
10 affect your ability to be -- that experience that he had and,
11 you know, you had through him that would affect your ability
12 to be fair and impartial?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Anything else?

15 THE PROSPECTIVE JUROR: That's about it.

16 THE COURT: You or any family member or close
17 friends ever been a witness to a crime?

18 THE PROSPECTIVE JUROR: I haven't been a witness to
19 a crime, no.

20 THE COURT: You don't know of any other members of
21 family that may have been?

22 THE PROSPECTIVE JUROR: Not offhand, I can't think
23 of any.

24 THE COURT: Have you, a family member or close
25 friend ever been a witness in a grand jury investigation or

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1 been questioned in any matter by law enforcement, other than
2 what you told us about your nephew?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: What about victim of a crime?

5 THE PROSPECTIVE JUROR: I haven't been, no.

6 THE COURT: Any family members that you know of?

7 THE PROSPECTIVE JUROR: Not that I know of.

8 THE COURT: Anyone in your family, yourself, close
9 friends ever been a party to a lawsuit or legal action against
10 the United States or its agencies or employees?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Now this case has received some media
13 attention.

14 Have you heard, read, seen anything in the media
15 about this case before or about the defendant Douglass Mackey,
16 otherwise known as Ricky Vaughn?

17 THE PROSPECTIVE JUROR: No, I haven't.

18 THE COURT: This case involves individuals,
19 including the defendant Douglass Mackey who had strong
20 political preferences during the 2016 presidential election
21 campaign, including individuals who supported President Donald
22 Trump and individuals who supported presidential candidate
23 Hillary Clinton.

24 Do you have strong feelings or opinions about the
25 2016 presidential election campaign or those two candidates,

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1 such up that it would overcome your duty to judge the facts in
2 this case fairly and impartially?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Do you have any experience with what you
5 perceive to be deliberately false or misleading information on
6 the internet or social media?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: At trial, you may hear some language
9 that you find to be offensive. You shouldn't assess that
10 evidence based on whether you find it to be offensive or not,
11 but rather on whether that evidence tends to prove or disprove
12 the elements of the crime.

13 If you found some of the evidence offensive, would
14 you be able to put aside your feelings about it and view it
15 objectively and consider it in light of the instructions on
16 the law that you get from Judge Garaufis?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: You live in Brooklyn, sir?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: How long?

21 THE PROSPECTIVE JUROR: All my life.

22 THE COURT: Do you own or do you rent?

23 THE PROSPECTIVE JUROR: I own.

24 THE COURT: You live with anyone?

25 THE PROSPECTIVE JUROR: No.

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1 THE COURT: Have a spouse, children?

2 THE PROSPECTIVE JUROR: I'm divorced. One child.

3 THE COURT: How old?

4 THE PROSPECTIVE JUROR: Thirty-five.

5 THE COURT: What does your child do for a living?

6 THE PROSPECTIVE JUROR: She's a psychologist in the
7 schools.

8 THE COURT: And what about your ex-spouse, what did
9 she do for a living?

10 THE PROSPECTIVE JUROR: She works for a bank.
11 JPMorgan.

12 THE COURT: What do you do for a living?

13 THE PROSPECTIVE JUROR: I'm a retired custodian
14 engineer for the board of -- the Department of Education.

15 THE COURT: I still call it the Board of Education.
16 What the highest level of education you've
17 completed?

18 THE PROSPECTIVE JUROR: High school.

19 THE COURT: Have you ever served in the military?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: How did you get your news? From
22 newspapers? Radio? Television? Internet? Social media?
23 Podcasts?

24 THE PROSPECTIVE JUROR: Yeah, the basic, newspapers,
25 television.

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1 THE COURT: What newspapers do you reads?

2 THE PROSPECTIVE JUROR: The Post. The News.

3 THE COURT: And what about TV? Are there any

4 particular networks that you get your news from?

5 THE PROSPECTIVE JUROR: Channel 7, and basically

6 some of the cable. Just regular news.

7 THE COURT: CNN, MSNBC?

8 THE PROSPECTIVE JUROR: Yeah, all of that.

9 THE COURT: Are you -- do you use the internet or
10 social media?

11 THE PROSPECTIVE JUROR: No, not really.

12 THE COURT: Do you have a Facebook or a Twitter or
13 Instagram account?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Are you concerned at all about the
16 reliability of the information that you find on the internet
17 or social media?

18 THE PROSPECTIVE JUROR: No, I don't.

19 THE COURT: Because you don't use it, right?

20 Have you ever been involved in voter education or
21 registration efforts or other -- any other "get out the vote"
22 efforts?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Do you have any hobbies?

25 THE PROSPECTIVE JUROR: Excuse me?

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1 THE COURT: Any hobbies? How do you spend your
2 leisure time?

3 THE PROSPECTIVE JUROR: Just watching sports,
4 basically.

5 THE COURT: Are there any television shows or radio
6 programs that you regularly watch or listen to?

7 THE PROSPECTIVE JUROR: Basically I watch sports and
8 news.

9 THE COURT: On the channels that you mentioned
10 already?

11 THE PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: Is there any reason why you can't be a
13 fair and impartial jury in this case?

14 THE PROSPECTIVE JUROR: I don't think so.

15 THE COURT: Is there anything about this case that
16 would you cause to you favor one side over the other?

17 THE PROSPECTIVE JUROR: I don't think so.

18 THE COURT: Will you able to set aside any
19 sympathies or biases you may have for any of the parties in
20 this case and render a fair and impartial verdict based solely
21 on the evidence presented in court, and the law as given to
22 you by Judge Garaufis?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Do we have any questions for Mr. Mooney?

25 MR. FRISCH: No, Your Honor.

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1 MR. GULLOTTA: Not at this time.

2 THE COURT: No, okay.

3 Mr. Mooney, thank you. You're going to be taken
4 into the next courtroom. Wait for a little while. And we'll
5 to follow up later today.

6 THE PROSPECTIVE JUROR: Okay. Thank you.

7 (Prospective juror exits the courtroom.)

8 THE COURT: Gentlemen and ladies, we have been
9 approached by Ms. Marcus for dispensation from the remainder
10 of today's proceedings, number one. There's a 2:30 work
11 commitment. I mean, she told us about her work, childcare,
12 she'd like to leave for the day and come back.

13 The problem with this is that, you know, we get the
14 next one, then the next one, then -- if they all come back
15 tomorrow, fine; if they don't, we're going to have problems.

16 Any objection to allowing Ms. Marcus to go take care
17 of this and come back tomorrow?

18 MR. GULLOTTA: No, Your Honor.

19 MR. FRISCH: Do you want to tell her?

20 THE COURT: Yes.

21 (Prospective juror enters the courtroom.)

22 THE COURT: Good afternoon, Ms. Marcus.

23 THE PROSPECTIVE JUROR: Good afternoon.

24 THE COURT: I understand that you've requested to
25 leave today to take care of a work commitment at 2:30?

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1 THE PROSPECTIVE JUROR: Yes, take care of a child.

2 THE COURT: And you'd come back tomorrow for
3 remainder of the proceedings?

4 THE PROSPECTIVE JUROR: My question is if I am like
5 since I'm going to be chosen to take care of a child, so I
6 mean I need to --

7 THE COURT: If you are among -- it doesn't mean that
8 you were chosen, it means that you are among the pool of
9 either 36 or 40, people from which the jury will be chosen.
10 And that will be done after we get a group that withstands
11 challenges of 36 and maybe 40 people, and then the lawyers
12 will exercise their peremptory challenges and strike people,
13 and that will leave us with 12 jurors and either four or six
14 alternates.

15 And as I said yesterday, the odds are if you're
16 among the 40, there are better odds that you'll be stricken
17 then -- that you'll be chosen, because the number of people
18 chosen are less than the number of people stricken. So your
19 odds are that. But, again, there's no guarantee.

20 So I'm prepared to let you go take care of your
21 charge today, come back tomorrow. That's not a problem.
22 We're going to start tomorrow at 9:15. So you need to be in
23 the central jury room at 9:15.

24 Don't do any internet research on this case. If you
25 see anything in your news feed or whatever it is they call it,

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1 your Twitter pops up, don't read it. Ignore it.

2 Don't talk to anybody about the case. Just tell
3 them I'm not process of being selected to serve on a jury in a
4 criminal case.

5 If you see the lawyers outside or the parties
6 tomorrow in the hall, they're not going to talk to you.
7 Please don't talk to them. Communications can only happen in
8 court.

9 And if anyone approaches you about this case, please
10 let us know tomorrow, okay? All right.

11 THE PROSPECTIVE JUROR: Can I just ask a question?
12 If I didn't leave early today would I still come back tomorrow
13 any way?

14 THE COURT: Most likely, yes, because we're not
15 going -- it's taking slower than we had hoped, and we're not
16 going to get through the requisite number of people in the
17 pool from which we have to pick the jury until tomorrow.

18 So there will be proceedings tomorrow.

19 THE PROSPECTIVE JUROR: So thank you for allowing me
20 the time to leave. I appreciate it. Thank you.

21 THE COURT: Thanks.

22 (Prospective juror exits the courtroom.)

23 THE COURT: Okay, Ms. Harriet Liu is Number 33. She
24 has indicated affirmative responses to 18 and 19.

25 (Prospective juror enters the courtroom.)

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1 THE COURT: Good afternoon, Ms. Liu.

2 You indicated that you have either yourself, a
3 family member or close friends work for, been a member of
4 applied for employment with law enforcement.

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: And that you have -- or family members
7 or close friends have relationships with such folks.

8 Can you tell me about that, please?

9 THE PROSPECTIVE JUROR: My first cousin is actually
10 a cop. I mean, kind of like an acquaintance cousin because I
11 don't really talk to him, but it's more so my brothers who
12 speak to him. But he's been a cop for quite a few years.

13 THE COURT: NYPD?

14 THE PROSPECTIVE JUROR: Yeah.

15 THE COURT: Okay. Has he ever spoken with you about
16 the law or, you know, what the law is on any given subject?

17 THE PROSPECTIVE JUROR: No, we don't talk.

18 THE COURT: All right. And is that the -- that's
19 the only person in response to both Questions 18 and 19?

20 THE PROSPECTIVE JUROR: My best friend's sister's a
21 cop. But we don't talk about anything related to law.

22 THE COURT: All right. So in this case you're going
23 to get the law from Judge Garaufis. He's going to instruct
24 you on what the elements of the crime, what the government has
25 to prove and all of that. And you have to apply that, whether

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1 you agree with it or not, whether you think it should be
2 different, whether you've learned something else from someone
3 else.

4 Can you do that? Can you take the law from
5 Judge Garaufis and apply it to this case?

6 THE PROSPECTIVE JUROR: Yes, I guess.

7 THE COURT: Your duty bound, because you're going to
8 take an oath to do that, and the judge is the one who
9 instructs the jury on the law.

10 But you can't go do private research and talk to
11 other people and say what is the law on this? You're not
12 permitted to do that. It's the judge who tells you what it
13 is.

14 You can take his law, yes?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: Okay. Your relationship or, I use that
17 term loosely, with your first cousin who's a cop and your best
18 friend's sister who's a cop, will that affect your ability to
19 be fair and impartial in this case?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: We're going to have the trial in this
22 case. It may start on Thursday, the 16th. Possibility it may
23 be pushed to the Monday the 20th. And at the very latest it
24 would end on March 31st, depending upon the beginning of the
25 trial. More likely it will be earlier than that.

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1 Is there any reason why, if you were serving on this
2 jury for that period of time, it would cause you a genuine
3 hardship?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Have you, a family member or close
6 friend ever been charged with a crime, convicted of a crime or
7 been the subject of a criminal investigation?

8 THE PROSPECTIVE JUROR: I had a friend from high
9 school and she recently -- she was actually a cop. I haven't
10 spoken to her since high school. And my husband at one point
11 was still talking to her. And I don't know if anybody knows,
12 but her name's Yvonne Wu (phonetic). She was actually NYPD
13 cop also, but I think she got -- I'm pretty sure she got
14 charged because she shot her ex-girlfriend's lover or
15 something.

16 THE COURT: Okay.

17 THE PROSPECTIVE JUROR: But I haven't spoken to any
18 of them in quite a long time.

19 THE COURT: All right. Will that in any way affect
20 your ability to be fair and impartial in this case?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Have you or any family member or close
23 friend ever been a witness to a crime?

24 THE PROSPECTIVE JUROR: Not that I know of, no.

25 THE COURT: Have you, a family member or close

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1 friend ever been a witness in a grand jury investigation or
2 been questioned in any matter by a law enforcement officer?

3 THE PROSPECTIVE JUROR: Not that I know of.

4 THE COURT: Have you or any family member or close
5 friend been the victim of a crime?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Have you or any family member or close
8 friend ever been a party to a legal action or dispute against
9 the United States or any of its agencies or employees?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Now, as I said before this case received
12 some media attention.

13 Have you read heard or seen anything in the media
14 about this case or about the defendant Douglass Mackey a/k/a
15 Ricky Vaughn?

16 THE PROSPECTIVE JUROR: No, not until yesterday when
17 I Googled at home.

18 THE COURT: You Googled at home?

19 THE PROSPECTIVE JUROR: Yeah.

20 THE COURT: What did you see?

21 THE PROSPECTIVE JUROR: Because I'm not into
22 politics or anything so I was just like who is this person I
23 never heard of. And it was just, I think, 4,300 people I
24 think he tried to scam them through text rather than voting in
25 person. That's all I can remember.

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1 THE COURT: Did you make up any -- come to any
2 conclusions based on what you -- let me ask you this: How
3 many reports or articles or whatever did you see?

4 THE PROSPECTIVE JUROR: Just one.

5 THE COURT: Other than this one Google search did
6 you do any other internet search?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: Did you come to any conclusions on your
9 own based on that research whether there was validity to the
10 allegations or there was not validity or anything?

11 THE PROSPECTIVE JUROR: No, nothing.

12 THE COURT: Do you remember the name of the article
13 that you saw or what -- or on what -- who wrote it or --

14 THE PROSPECTIVE JUROR: I can't remember the article
15 was, but it was something about prosecuted, prosecution or
16 something like that. That was it.

17 THE COURT: Having seen that article can you ignore
18 it, put it out of your mind and if you were selected to serve
19 on this jury, reach a decision based solely on the evidence
20 presented in court and the law as given to you by Judge
21 Garaufis?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: No, this case involves various
24 individuals including Mr. Mackey who had strong political
25 preferences during the 2016 presidential campaign including

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1 individuals who supported President Donald Trump and
2 individuals who supported presidential candidate Hilary
3 Clinton.

4 Do you have strong feelings or opinions related to
5 the 2016 presidential election campaign or to the two
6 candidates in that campaign such that it would overcome your
7 duty to judge the facts in this case impartially and fairly?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Did you vote in the 2016 election?

10 THE PROSPECTIVE JUROR: I don't think I'm
11 registered.

12 THE COURT: You were not old enough to vote then?

13 THE PROSPECTIVE JUROR: I was. I just chose not to
14 vote. I'm not in politics, nothing. I'm not interested in
15 any of those.

16 THE COURT: Okay. Do you have any experience with
17 what you perceive to be deliberately false or misleading
18 information on the internet or social media?

19 THE PROSPECTIVE JUROR: Rephrase that question
20 again.

21 THE COURT: Do you have any experience with what you
22 perceived to be deliberately false or misleading information
23 on the internet or on social media?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: At trial you may hear some language that

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1 you may find to be offensive. You should not assess the
2 evidence you hear based on whether you find it to be offensive
3 or not but rather whether the evidence tends to prove or
4 disapprove the elements of the crime.

5 If you found some evidence to be offensive, would
6 you be able to set aside your feelings about it and
7 objectively consider it and follow the court's instructions on
8 the law?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: You live in Staten Island, Ms. Liu?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: And how long have you lived there?

13 THE PROSPECTIVE JUROR: I mean, before COVID I was
14 on and off in Brooklyn with my parents and then I moved back
15 to Staten Island because I was, like -- my husband wanted to
16 see the dog also. So officially in September I moved back
17 there and stayed there permanently since then.

18 THE COURT: But aside from Staten Island you've
19 lived in Brooklyn?

20 THE PROSPECTIVE JUROR: All of my life, yeah, in
21 Brooklyn.

22 THE COURT: Your place in Staten Island, do you own
23 or rent?

24 THE PROSPECTIVE JUROR: Owned. My husband owns it.

25 THE COURT: What does he do?

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1 THE PROSPECTIVE JUROR: He just started MTA as a
2 train operator.

3 THE COURT: Do you have any children?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: And what do you do for a living?

6 THE PROSPECTIVE JUROR: I recently left the Gap that
7 closed down in the mall in Staten Island and now I work at the
8 DMV.

9 THE COURT: What is the highest level of education
10 you completed?

11 THE PROSPECTIVE JUROR: My Bachelor's degree.

12 THE COURT: Have you ever served in the military?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Where do you get your news from,
15 newspapers, radio, TV, internet, social media, podcasts or
16 what?

17 THE PROSPECTIVE JUROR: Mostly on the internet but I
18 don't really pay attention to the news. If I am on some
19 browsing website and I'm interested I'll read it, but that's
20 pretty much it.

21 THE COURT: Do you use -- other than what you've
22 already explained do you use the internet and social media?

23 THE PROSPECTIVE JUROR: I do but I only use it to
24 browse a website YouTube, Google, TikTok.

25 THE COURT: Do you have a Facebook or Twitter or

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1 Instagram account?

2 THE PROSPECTIVE JUROR: I used to have all three. I
3 had to have a Twitter account because I needed it for college.
4 I had had Facebook, but I deactivated it awhile ago because it
5 takes up your life.

6 THE COURT: And do you still use your -- you said
7 for college you got a Twitter account?

8 THE PROSPECTIVE JUROR: Yeah, I had it for when I
9 was in college.

10 THE COURT: I think the mic went out. Hold on.
11 Go ahead.

12 THE PROSPECTIVE JUROR: I had Twitter. Probably the
13 last time I used it was 2014 or 2015. The professor said we
14 needed to use a Twitter account just to, like, re- Tweet
15 articles regarding our major and also was part of, like, our
16 syllabus productivity percentage or something. I forgot. I
17 graduated a long time ago.

18 THE COURT: But you no longer use it?

19 THE PROSPECTIVE JUROR: No because I don't know how
20 to use it.

21 THE COURT: Have you ever been concerned about the
22 reliability of information that you find on the internet or
23 social media?

24 THE PROSPECTIVE JUROR: Sometimes yes and no.

25 THE COURT: Will that affect your ability to be fair

JURY SELECTION

294

1 and impartial in this case?

2 THE PROSPECTIVE JUROR: I would say no.

3 THE COURT: Have you ever been involved in voter
4 education or registration efforts or any get out the vote
5 efforts?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Do you have any hobbies?

8 THE PROSPECTIVE JUROR: Stay at home with my dog and
9 watch TV.

10 THE COURT: Well, what do you watch on TV regularly
11 or what do you listen to regularly on the radio, particular
12 shows or programs?

13 THE PROSPECTIVE JUROR: I mainly just watch Korean
14 and Chinese stuff. I don't listen to the radio. My husband
15 does in the car.

16 THE COURT: Okay. The -- the Korean or Chinese
17 shows, are they news shows or are they just comedies and
18 dramas and non-news?

19 THE PROSPECTIVE JUROR: It's just dramas, made up
20 fiction and stuff.

21 THE COURT: Is there any reason why you cannot be
22 fair and impartial in rendering a verdict in this case?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Is there anything in this case that
25 would cause you to favor one side over other?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Will you be able to set aside any
3 sympathies or biases you have for any of the parties in this
4 case and render an impartial verdict.

5 THE PROSPECTIVE JUROR: Say that again.

6 THE COURT: Will you be able to set aside any
7 sympathies or biases that you may have for any of the parties
8 in this case and render an impartial verdict based solely on
9 the evidence presented in court and the law as given to you by
10 Judge Garaufis?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: I just want to be clear again about the
13 Google search you did for this case and the one thing that you
14 saw during that search. Are you certain that that will not
15 affect your ability to be fair and impartial?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay. Any follow-up questions for
18 Ms. Liu?

19 MR. GULLOTTA: No, Your Honor.

20 MR. FRISCH: I do.

21 THE COURT: Do you want to come up and talk?

22 MR. FRISCH: Please.

23 (Continued on the next page.)

24 (Sidebar conference.)

25

SIDEBAR CONFERENCE

296

1 (The following occurred at sidebar.)

2 MR. FRISCH: I think that a juror during jury
3 selection Googling a case and reading an article about it and
4 this particular article I think is -- it's not the one you
5 mentioned earlier, but it's a question about this prosecution
6 and I think that's per se disqualifying. Whatever she says
7 about her certainty or lack of certainty I think she can't be
8 on the jury for doing that.

9 If Your Honor instructed her not to look things up,
10 she violated the Court's direction and that in and of itself
11 is disqualifying and if Your Honor didn't do that, probably
12 it's all of our bad for not realizing it and not calling it to
13 Your Honor's attention --

14 THE COURT: I didn't.

15 MR. FRISCH: Well, we shouldn't.

16 THE COURT: I shouldn't.

17 MR. FRISCH: It's all of our faults, but here we
18 are. She did something she shouldn't have done. She read
19 something about this prosecution. I don't think she can be
20 resurrected.

21 THE COURT: It's likely the DOJ's press release
22 because that's is the first thing that came up. After you
23 mentioned this morning about this, I did a Google and the
24 first thing was the press release.

25 Do you have anything to say.

SIDEBAR CONFERENCE

297

1 MR. GULLOTTA: She doesn't demonstrate a bias. I
2 think you asked adequate follow-up questions on how she would
3 handle the evidence if she were selected and I think her
4 answers were sufficient and I also don't recall an
5 instruction, maybe there was one that they not Google the
6 case, so I don't know that she, like, actually violated an
7 instruction from the Court. She may have been curious and not
8 know that it was wrong. I don't know.

9 We don't want anyone either on the jury that is
10 going to have a big preconception about the case. It doesn't
11 seem like that's what she was articulating. There are plenty
12 of cases that gain media attention so people will just know
13 about them and we have to ask the question will you be
14 influenced by that or can you separate what you have heard
15 about the case when you're at trial. She seemed to answer
16 that question adequately.

17 All of that being said I don't think the Government
18 has a strong position on this. If the Court is concerned in
19 the way that Mr. Frisch is concerned, so be it. We can strike
20 her and move on, but that's just my evaluation to my responses
21 to the Court's questions.

22 MR. FRISCH: I think it's a per se violation and she
23 can't be resurrected. It's someone during the jury selection
24 Googling and reading the case. I don't fault her for doing it
25 but she did it and that's it.

SIDEBAR CONFERENCE

298

1 THE COURT: I don't think it's a per se violation
2 because she was -- the jury was not instructed not to do that.
3 However, in light of the Government's -- it has really no
4 objection to striking her so out of an abundance of question,
5 I will.

6 MR. GULLOTTA: Fair enough.

7 MR. FRISCH: Thank you.

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9 (End of sidebar conference.)

10 (Continued on the next page.)

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JURY SELECTION

299

1 THE COURT: Thank you, Ms. Liu. I'm going to excuse
2 you from serving on this jury. You can report to the Central
3 Jury Room and they will give you further instructions. Do you
4 have your -- you don't have your juror card with you, the big
5 number that we gave you yesterday.

6 THE PROSPECTIVE JUROR: I don't think I got that.

7 THE COURT: It was the one in the Central Jury Room.

8 THE PROSPECTIVE JUROR: I left that inside there.

9 THE COURT: Okay. You can go to the Central Jury
10 Room. They'll let you know what to do.

11 THE PROSPECTIVE JUROR: Thank you.

12 (Prospective juror exits.)

13 MR. FRISCH: Can I make a suggestion before we go to
14 where we are. It's probably -- if I had realized that that
15 instruction wasn't in there, I would have called it to your
16 attention but we're all human. Might I propose that perhaps
17 just to avoid this happening again -- they're sitting there,
18 they're bored, they have their phones, that Your Honor go in
19 and just tell the jurors we appreciate your patience --

20 THE COURT: They don't have their phones.

21 MR. FRISCH: How did she Google it?

22 THE COURT: She went home yesterday.

23 MR. FRISCH: I was thinking because I have my phone
24 they must have their's, but I'm a lawyer, but, okay.

25 MR. GULLOTTA: It makes sense to give it at the end

JURY SELECTION

300

1 of the day though, Your Honor.

2 THE COURT: I agree and all of the other charges
3 again.

4 (Prospective juror enters.)

5 THE COURT: Good afternoon Ms. Bolarinwa.

6 THE PROSPECTIVE JUROR: Good afternoon.

7 THE COURT: Ms. Bolarinwa, the trial in this case is
8 going to start perhaps on Thursday and continue through
9 perhaps March 31st.

10 THE PROSPECTIVE JUROR: Okay.

11 THE COURT: They may adjust it a little bit so it
12 begins on Monday the 20th, we're not sure yet. Is there any
13 reason why serving on the jury during that period of time
14 would cause you a genuine hardship?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Have you, a family member or close
17 friend ever been charged with a crime, convicted of a crime or
18 been the subject of a criminal investigation?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: Have you or any member of your family or
21 close friends ever been a witness to a crime?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Have you, a family member or close
24 friend ever been a witness in a grand jury investigation or
25 been questioned in any matter by law enforcement officers?

JURY SELECTION

301

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Have you or any member of your family or
3 close friends ever been the victim of a crime?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Have you, a family member or close
6 friend ever been a party to a legal action or dispute against
7 the United States or any of its agencies or employees?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Now, this case has received some degree
10 of media attention. Have you read, heard or seen anything in
11 the media about this case or about the defendant Douglas
12 Mackey, otherwise known as Ricky Vaughn?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: This case involves various individuals
15 including the defendant Douglas Mackey who had strong
16 political preferences during the 2016 presidential election
17 campaign, including individuals who supported President Donald
18 Trump and also individuals who supported presidential
19 candidate Hilary Clinton.

20 Do you have strong opinions or feelings related to
21 the 2016 presidential election campaign or to the two
22 candidates in that campaign, such that it would overcome your
23 duty to judge the facts in this case impartially and fairly.

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Do you have any experience with what you

JURY SELECTION

302

1 perceived to be deliberately false or misleading information
2 to the internet or on social media?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: At trial you may hear some language
5 that you find may be offensive. You should not assess the
6 evidence you hear based on whether you find it to be offensive
7 or not, but rather on whether the evidence tends to prove the
8 elements of the crime or disprove them.

9 If you found some of the evidence to be offensive
10 would you be able to set aside your feelings about its
11 offensiveness and to objectively hear and consider that
12 evidence and the instructions to you given you by Judge
13 Garaufis.

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: You live in Brooklyn?

16 THE PROSPECTIVE JUROR: Brooklyn, yes.

17 THE COURT: How long?

18 THE PROSPECTIVE JUROR: About 30 minutes to my
19 house.

20 THE COURT: How long have you lived in Brooklyn?

21 THE PROSPECTIVE JUROR: 2011 to until now.

22 THE COURT: Do you own the house or do you rent it?

23 THE PROSPECTIVE JUROR: No, no, it's my daughter's
24 house.

25 THE COURT: It's your daughter's house?

JURY SELECTION

303

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Other than your daughter, who lives
3 there?

4 THE PROSPECTIVE JUROR: I live with my little
5 daughter.

6 THE COURT: And it's her house.

7 THE PROSPECTIVE JUROR: Yes, my daughter.

8 THE COURT: Do you own it or --

9 THE PROSPECTIVE JUROR: It's only two of us; myself
10 and my little daughter.

11 THE COURT: Is it an apartment or house?

12 THE PROSPECTIVE JUROR: It's a family house.

13 THE COURT: And your daughter owns it?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: What does she do for a living?

16 THE PROSPECTIVE JUROR: She's in college, the little
17 one, but the other one that own the house she works in
18 Maryland.

19 THE COURT: She works in Maryland?

20 THE PROSPECTIVE JUROR: She's a senior developer.

21 THE COURT: She lives down there?

22 THE PROSPECTIVE JUROR: She owns the house but I
23 live there with my little daughter.

24 THE COURT: I got it. Do you work?

25 THE PROSPECTIVE JUROR: Yes.

JURY SELECTION

304

1 THE COURT: What do you do?

2 THE PROSPECTIVE JUROR: Behavioral health.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: I work with psych patients.

5 THE COURT: And what's the highest level of
6 education you received?

7 THE PROSPECTIVE JUROR: Associates degree in
8 science.

9 THE COURT: Have you ever served in the military.

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Where do you get your news from,
12 newspapers, radio, TV, internet, social media, podcasts, what?

13 THE PROSPECTIVE JUROR: I'm sorry, I don't read
14 news. I just read my novels, go to my job, I come back and
15 take my book and start reading and that's it.

16 THE COURT: That is all right. Do you use the
17 internet for social media?

18 THE PROSPECTIVE JUROR: I only use it for my job.

19 THE COURT: You don't have a Twitter account or
20 Instagram or Facebook?

21 THE PROSPECTIVE JUROR: I have Facebook, but I used
22 it three or four years ago because of the messages so I have
23 to block it.

24 THE COURT: Are you concerned at all about the
25 reliability of the information that you find on the internet

JURY SELECTION

305

1 and social media?

2 THE PROSPECTIVE JUROR: Yeah, that's why I block it
3 because of the messages that I received there. So I don't
4 like it. So I blocked Facebook so I don't look at Facebook.

5 THE COURT: Have you ever been involved in voter
6 education, voter registration or any get out and vote efforts?

7 THE PROSPECTIVE JUROR: No, no.

8 THE COURT: Do you have any hobbies?

9 THE PROSPECTIVE JUROR: Yeah, my hobbies is readings
10 novels and playing with my kid. That's my hobby.

11 THE COURT: Do you watch any particular television
12 shows or listen to any particular radio programs on a regular
13 basis?

14 THE PROSPECTIVE JUROR: Yeah the one I watch is
15 maybe like play movies. I'm not so interested in those
16 type -- within 30 minutes I'm off. So I really don't sit down
17 with the TV.

18 THE COURT: Is there any reason why you cannot be
19 fair and impartial in this case?

20 THE PROSPECTIVE JUROR: No. I don't think so.

21 THE COURT: Is there anything about this case that
22 would cause you to favor one side over the other?

23 THE PROSPECTIVE JUROR: No, no.

24 THE COURT: Have you been able to set aside any
25 sympathies or biases for any of the parties in this case and

JURY SELECTION

306

1 render an impartial verdict based on the evidence
2 presented in court and the law as given to you by the judge?

3 THE PROSPECTIVE JUROR: I can, yes.

4 THE COURT: Yes?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. Any questions for Ms. Bolarinwa?

7 MR. GULLOTTA: No, Your Honor.

8 MR. FRISCH: No, Your Honor. Thank you.

9 THE COURT: Thank you. Ms. Bolarinwa, they're going
10 to take you into the next courtroom and you're going to wait a
11 little bit and we'll get back to you shortly, okay?

12 (Prospective juror exits.)

13 (Prospective juror enters.)

14 (Prospective juror enters.)

15 THE COURT: Ms. Gyalnang, good afternoon.

16 THE PROSPECTIVE JUROR: Good afternoon.

17 THE COURT: You indicated that you have a background
18 or have taken courses in the law; is that correct?

19 THE PROSPECTIVE JUROR: I mean, I did take one class
20 when I was in college, Law 101, so that's what was in my head.

21 THE COURT: How long ago was that?

22 THE PROSPECTIVE JUROR: I think more than 15 years
23 ago.

24 THE COURT: Okay. You may have learned something in
25 that class about criminal law, I don't know. If you did,

JURY SELECTION

307

1 that's fine, but in this case the law that you apply is the
2 law that comes from Judge Garaufis. He will tell you what the
3 law is. You will have to follow the law whether you agree
4 with it or not, whether you think it should be different,
5 whether you learned something different in your Law 101 class
6 in college could. You do that?

7 THE PROSPECTIVE JUROR: I could do that.

8 THE COURT: The trial in the case is going to start
9 either on Thursday the 16th or Monday the 20th. We're not
10 quite sure yet. We'll know later today. It's going to last
11 until either the 28th at the very latest or the 31st depending
12 on when it starts. And it's likely going to end sooner than
13 either of these dates, but is there any reason why serving on
14 this jury for that period of time would cause you a genuine
15 hardship?

16 PROSPECTIVE JUROR: Just in terms of -- I don't know
17 what a genuine hardship is, but I'm at a new job. I'm here,
18 like, six months so it's kind of getting in the way of that.
19 I'm only been at my job for six months.

20 THE COURT: We'll talk about what you do in a little
21 while, but I appreciate that. We'll take that into account.

22 Have you, a family member or close friend ever been
23 charged with a crime, convicted of a crime, or been the
24 subject of a criminal investigation?

25 THE PROSPECTIVE JUROR: No.

JURY SELECTION

308

1 THE COURT: Have you or any member of your family or
2 close friends ever been a witness to a crime?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Have you, a family member or close
5 friend ever been a witness in a grand jury investigation or
6 been questioned in any matter by law enforcement officers?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: Have you or any member of your family or
9 close friends been the victim of a crime?

10 THE PROSPECTIVE JUROR: You said family?

11 THE COURT: You, a family member or close friend.

12 PROSPECTIVE JUROR: I don't know if you would call
13 it a crime. My family was robbed it was a home invasion.

14 THE COURT: People were there?

15 THE PROSPECTIVE JUROR: People came with guns and
16 stuff. I wasn't there. But it was in another country.

17 THE COURT: This is your immediate family?

18 PROSPECTIVE JUROR: Yes, it was a long time ago.

19 THE COURT: Were you born at that point or --

20 THE PROSPECTIVE JUROR: No, I was here. My parents
21 were back home in another country and I didn't know it at the
22 time but I found out many years later. They didn't tell me
23 because they didn't want to scare me.

24 THE COURT: Is there anything about their experience
25 or you hearing about it years later that would affect your

JURY SELECTION

309

1 ability to be fair and impartial in this case? This is not a
2 home invasion case.

3 THE PROSPECTIVE JUROR: No, I don't think that would
4 impact this case because there's no --

5 THE COURT: But if you were called upon to be a
6 juror in a home invasion case that might be a problem?

7 THE PROSPECTIVE JUROR: Yes, yes.

8 THE COURT: But not this case?

9 THE PROSPECTIVE JUROR: That incident wouldn't
10 affect this case.

11 THE COURT: Have you, a family member or a close
12 friend ever been a party to a legal action against the United
13 States or have a dispute with the United States or any of its
14 agencies or employees?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Now, this case has received some degree
17 of media attention. Have you read, heard or seen anything in
18 the media about this case or the defendant Douglas Mackey
19 a/k/a Ricky Vaughn?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Have you done any internet searches
22 since being called upon to be a juror in this --

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: This case involves various individuals
25 including the defendant, Douglas Mackey, who had strong

JURY SELECTION

310

1 political preferences during the 2016 presidential election
2 campaign, including individuals who supported president Donald
3 Trump and individuals who supported presidential candidate
4 Hilary Clinton. Do you have strong feelings or opinions
5 related to the 2016 presidential election campaign or the two
6 candidates in that campaign such that it would overcome your
7 duty to judge the facts in this case impartially and fairly?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Do you have any experience with what you
10 perceive to be deliberately false or misleading
11 information information on the internet or social media?

12 PROSPECTIVE JUROR: Can you repeat it again.

13 THE COURT: I smile because many people have asked
14 me to repeat that question. It's not artfully drafted I
15 apologize. Do you have any experience with what you perceived
16 to be deliberately false or misleading information on the
17 internet or on social media?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: At trial you may hear some language that
20 you may find to be offensive. You should not assess that
21 evidence based on whether or not it is offensive but rather on
22 whether the evidence tends to prove or disprove the elements
23 of the crime. If you found some evidence to be offensive
24 would you be able to put aside your feelings about it and
25 objectively hear it and consider it fairly and impartially.

JURY SELECTION

311

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: You live in Brooklyn?

3 PROSPECTIVE JUROR: Queens.

4 THE COURT: You live in Woodside.

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: How long?

7 THE PROSPECTIVE JUROR: I mean at this particular
8 address six years but in general I think, like, 20 years.

9 THE COURT: Do you own or do you rent?

10 THE PROSPECTIVE JUROR: Own.

11 THE COURT: Do you live with anyone?

12 THE PROSPECTIVE JUROR: My husband and my daughter.

13 THE COURT: What does your husband do for a living?

14 THE PROSPECTIVE JUROR: He works in IT.

15 THE COURT: And how old is your daughter?

16 THE PROSPECTIVE JUROR: She's 12.

17 THE COURT: And what do you do for a living?

18 THE PROSPECTIVE JUROR: I work in HR and I

19 specialize in benefits.

20 THE COURT: Thank you. What is the highest level of
21 education that you completed?

22 THE PROSPECTIVE JUROR: Bachelor's degree.

23 THE COURT: Have you ever served in the military?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Where do you get your news from;

JURY SELECTION

312

1 newspapers, radios, TV, internet, podcasts, other sources, all
2 of the above, how?

3 THE PROSPECTIVE JUROR: The internet.

4 THE COURT: Is there any particular sources of
5 internet news?

6 THE PROSPECTIVE JUROR: I think my browser just
7 opens up to MSN.com and I read what's there. Sometimes I go
8 to the New York Times.

9 THE COURT: All right, fair enough. Do you use the
10 internet -- other than what you said do you use the internet
11 and social media?

12 THE PROSPECTIVE JUROR: Facebook, Instagram, those
13 are the two main ones.

14 THE COURT: Do you have a Twitter account. TikTok?

15 THE PROSPECTIVE JUROR: No, I don't use those.

16 THE COURT: How often do you use Facebook and
17 Instagram?

18 THE PROSPECTIVE JUROR: Daily.

19 THE COURT: And how do you use them? Just looking
20 what's on your feed?

21 THE PROSPECTIVE JUROR: Yeah it's on my phone and so
22 I just check Instagram and once a day at least I check
23 Facebook just true the April.

24 THE COURT: Are you concerned about the reliability
25 of the information that you find on the internet and social

JURY SELECTION

313

1 media?

2 THE PROSPECTIVE JUROR: Actually, these days, yes
3 because I've heard of, like, bots in China -- you know,
4 putting up fake reviews and fake comments and fake articles
5 so, yes, these days yes. I don't trust what I see or hear
6 even if it's a video it could be doctored. It's difficult to
7 believe anything these days.

8 THE COURT: Okay. This case involves allegations of
9 false or misleading information that's spread on the internet
10 and through media. Given your concern about the reliability
11 of the information, would your concern affect your ability to
12 be fair and impartial in this case, meaning would you be
13 inclined towards one side or the other or be unable to
14 objectively hear the evidence presented in court and weigh it,
15 only -- before you answer, no case is decided on what happens
16 outside of the courtroom. It's what evidence is presented and
17 admitted into the trial and you have to confine yourself to
18 that.

19 THE PROSPECTIVE JUROR: Yeah, I mean, so given the
20 fact that I believe that pictures can be doctored, videos can
21 be doctored, articles can be manipulated. I honestly don't
22 believe anyone or anything these days because I don't know how
23 many hands it went through before it got to me. Not to say
24 anything about law enforcement. It's still people.

25 So, I -- I think it may impact me because like I

JURY SELECTION

314

1 said it's difficult to trust anyone or anything you see these
2 days especially with deep fake you're seeing someone who looks
3 like an actor but it's really not that person so it's
4 difficult to say what's true or not these days irrespective of
5 where it's coming from.

6 THE COURT: Notwithstanding what I will call a
7 healthy skepticism of what you see on the internet and social
8 media do you think you would be able to be a fair and
9 impartial juror in this case which involves allegations of
10 false and misleading information that was distributed through
11 the internet and social media where the evidence would be
12 presented in court and you would have to decide what's what.

13 PROSPECTIVE JUROR: I mean, I can try to be
14 objective but I think there may be an element of second
15 guessing what I'm seeing and I may be biased unconsciously so
16 I may not be 100 percent -- I don't know what the word is.

17 MR. FRISCH: May we approach Your Honor?

18 THE COURT: Sure.

19 (Continued on the next page.)

20 (Sidebar conference.)

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SIDEBAR CONFERENCE

315

1 (The following occurred at sidebar.)

2 MR. FRISCH: There's something about the case you
3 don't know which is that the conspirators or people on the
4 internet or in these chat rooms doctored photographs of
5 celebrities and so, for example, there's pictures of Justin
6 Bieber in a MAGA cap and Iggy Azalea. I don't know how to
7 spell it, in a MAGA cap and so I think that we probably -- my
8 colleagues and I probably share that this may be too close to
9 the bond.

10 MR. GULLOTTA: I guess that's fair. I mean she's
11 lodged a healthy skepticism and I think that's accurate. I
12 don't know that that renders her unable to separate what she's
13 seen online in the past from what she sees at trial. I feel
14 like we're going to have a implement with anyone who answers
15 that question that something who heard or seen something
16 online that's false. I haven't gotten a sense from any of the
17 answers to your questions that she's an unsuitable juror. So,
18 I don't know that that renders her unqualified.

19 MR. FRISCH: I think it does. She's talking about
20 an element of secondguessing. She's talking about shutting
21 down her Facebook. This is her getting tired, but shutting it
22 down because of the false or fake information and when she
23 talked about fake photos of celebrities which we know in this
24 case not is done. It's part of life to show how things are
25 manufactured.

SIDEBAR CONFERENCE

316

1 MR. GULLOTTA: The truth and falsity of the
2 documents are not under dispute. They're obviously false.
3 The question is whether she would have a problem being an
4 impartial juror knowing he's associated with people who are
5 making false things. She seemed to have concern about her own
6 ability to tell the deep fake from the real thing. That's not
7 at issue in this case. It's all clearly false. I think
8 that's to provoke strong responses but there may be a
9 clarifying question on that.

10 THE COURT: All of the things that are going to be
11 shown, all of the things that were distributed on the internet
12 or social media is it conceded that they're false?

13 MR. FRISCH: Yes, but I don't think -- all of these
14 are photoshopped photographs of celebrities like the two I
15 mentioned. I appreciate your effort to characterize it as you
16 did but she's going to get turned off by anything she sees
17 she's going to go, this is what I see online. There's an
18 element of second guessing, an element of bias it's, just too
19 close.

20 MR. GULLOTTA: I don't think she said bias. I
21 understand where Mr. Frisch is coming from it cuts both ways
22 but if you have a juror that would not be fooled because she
23 has this level of skepticism I don't know if it renders her
24 biased towards the Government or defense. She's bringing her
25 outside experiences to a courtroom like every juror is

SIDEBAR CONFERENCE

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1 supposed to do. If she can separate it from the evidence she
2 can do that. If she can't do that, she's not qualified.

3 THE COURT: I mean, she's not going to be called
4 upon to determine whether something is false or not.

5 MR. PAULSEN: No.

6 THE COURT: If it's conceded that it's false.

7 MR. PAULSEN: It's whether she's frustrated at
8 having seen these things before.

9 MR. GULLOTTA: If it would generate an emotional
10 response she can't overcome, that's different.

11 MR. FRISCH: I've made my challenge. She -- she
12 specifically on her own -- look, we all want to get through
13 this but we can't do it too quickly. I'm a little bit tired.
14 I can be eloquent but not right now.

15 MR. GULLOTTA: Deep breath.

16 MR. FRISCH: The time that we take now is going to
17 save time later on if we have a mistrial or we have a problem
18 or something comes up something is in her mind, what do we do
19 and then we lost a juror and then it's a bigger waste of time
20 and a bigger problem. She's going to see these photos. We
21 can parse it. We're all very smart people. We can parse it
22 any way we want but the fact of the matter is she specifically
23 discussed and mentioned photo apps of celebrities -- fake
24 photographs of celebrities and that's what alleged
25 conspirators in this case did in an election with regard to

SIDEBAR CONFERENCE

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1 very well-known people. Even I know Iggy Azlalea. I don't
2 remember the song, but I do now. I just think she's not the
3 right juror for this case.

4 THE COURT: I'll ask her another question and I'll
5 see.

6 MR. GULLOTTA: Thanks.

7 (End of sidebar conference.)

8 (Continued on the next page.)

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JURY SELECTION

319

1 THE COURT: Ms. Gyalnang, if there is evidence
2 presented in this case of admittedly false and misleading
3 information distributed on the internet and social media
4 including pictures that are admittedly doctored, so no one
5 disputes that these are false, would that -- would knowing
6 that and the question is not -- knowing that, would that
7 affect your ability to be fair and impartial to judge the
8 evidence and say we know that these are admittedly false,
9 doctored, pictures; now let's move on to answer the other
10 questions in the case; does that and the other evidence
11 indicates proof beyond a reasonable doubt that Mr. Mackey
12 committed a crime?

13 THE PROSPECTIVE JUROR: If the person admitted that
14 they doctored those pictures?

15 THE COURT: From what I understand it is not
16 disputed that the -- that the things distributed through the
17 internet and contained -- are doctored images and other false
18 and misleading information. That's not something that you're
19 going to have to be -- you're going to be asked to decide as a
20 juror. It's other things. If you're still uncomfortable with
21 it, tell me.

22 THE PROSPECTIVE JUROR: I don't understand it.

23 THE COURT: The allegations here are that
24 information was distributed through the internet and social
25 media that was false and misleading and it was about the 2016

JURY SELECTION

320

1 presidential election. That information contained -- and
2 those distributions through the internet and social media
3 contained at least in part admittedly doctored images. No
4 dispute there. You will see that evidence, you will be called
5 upon as a juror to listen to it, see it and other evidence to
6 determine whether or not a crime has been committed and it, of
7 course, is the Government burden to prove that beyond a
8 reasonable doubt, to over come the presumption of innocence
9 that Mr. Mackey has.

10 In light of that, what I just explained to you, do
11 you think you can be fair and impartial? In other words,
12 you're not being called upon to say is this a doctored image.
13 There's no question that it is. It's admitted. So you're
14 not -- the reasons that caused you to stop looking at
15 Facebook, that's not at play in this case.

16 PROSPECTIVE JUROR: Yes, I think I can do it, yeah.

17 THE COURT: Did I ask you -- and so you think
18 knowing that you can be fair and impartial and judge the
19 evidence for what it's worth, put the Government to its proof,
20 to prove beyond a reasonable doubt all of the other
21 individuals elements of the crime in order to determine the
22 case?

23 PROSPECTIVE JUROR: Yes.

24 (Continued on the following page.)
25

JURY SELECTION

321

1 THE COURT: Did I ask you if you had any hobbies?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Did I ask you whether you had been
4 involved in voter education or registration or Get Out the
5 Vote efforts?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Have you been?

8 THE PROSPECTIVE JUROR: So the first question,
9 hobbies?

10 THE COURT: Let's go with the first question, voter
11 education or voter registration or Get Out the Vote. Have you
12 ever done that?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Do you have any hobbies or how do you
15 spend your leisure time?

16 THE PROSPECTIVE JUROR: I just walk my dog.

17 THE COURT: Okay. Do you have any television shows
18 or radio programs that you regularly watch or listen to?

19 THE PROSPECTIVE JUROR: I just watch Netflix and
20 Prime so just pick a few shows. So detective, sometimes
21 detective stories, detective thrillers.

22 THE COURT: Is there a show you're binging now?

23 THE PROSPECTIVE JUROR: I think I just started the
24 night manager.

25 THE COURT: Okay. Fiction.

JURY SELECTION

322

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Largely fiction.

3 THE PROSPECTIVE JUROR: But I do watch, like,
4 detective series like Endeavor, BBC Masterpiece. I can't
5 remember. Yes. So those kind of, those kind of shows.

6 THE COURT: Is there any reason why you cannot be
7 fair and impartial in this case?

8 THE PROSPECTIVE JUROR: The only thing I'll say is I
9 don't know the facts of this case but it seems not such, you
10 know, compared to murder and things like that. It seems,
11 like, sort of white collar crime. So I don't know how
12 severely this person is going to be punished. So I just feel
13 like I don't want to be responsible for putting someone in
14 jail and then, you know, like, the effects of jail are really
15 harsh on a person. It takes, you know -- it's a huge toll on
16 a person so that, I think, may affect me a little. I think
17 there are bigger crimes out there, not that this is not a
18 crime. I don't know much about it but I just don't know if
19 it's worth this much effort and, you know, like, putting
20 someone in jail not knowing the facts of the case.

21 THE COURT: Punishment is an issue for
22 Judge Garaufis to decide. Whether a sentence of incarceration
23 should be imposed, that is completely up to him, and it's not
24 something that the jury will be asked to do. All the jury
25 will be asked to do is to determine whether the government has

JURY SELECTION

323

1 satisfied its burden of proof to prove beyond a reasonable
2 doubt that Mr. Mackey is guilty of the crime that has been
3 charged. So that is -- you don't have to concern yourself
4 with that. That is not on you, as they say, but I understand
5 what you're saying.

6 THE PROSPECTIVE JUROR: Yes, I would just feel
7 somewhat guilty that I played a part in someone possibly going
8 to jail where you're otherwise abused. That trauma takes
9 years to get over it. People never get over it. I watch
10 prisoner-type shows where I know terrible things happen and I
11 kind of believe in second chances.

12 THE COURT: Would that concern overcome your duty to
13 be fair and impartial to both sides of the case? In other
14 words, you would side towards finding Mr. Mackey not guilty
15 because you're concerned that he might go to prison?

16 THE PROSPECTIVE JUROR: I think that guilt -- I will
17 try to be objective, but I don't know if it unconsciously, I
18 kind of don't want that guilt of being part of this --

19 THE COURT: Okay.

20 THE PROSPECTIVE JUROR: -- given the nature of the
21 crime.

22 THE COURT: Will you be able to set aside any
23 sympathies or biases you may have for any of the parties in
24 this case and render an impartial verdict based solely on the
25 evidence and the law as given to you by Judge Garaufis?

JURY SELECTION

324

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. All right. Anything else from
3 the --

4 MR. GULLOTTA: Can we have a sidebar?

5 THE COURT: Sure.

6 (Continued on the next page.)

7 (Sidebar conference.)

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SIDEBAR CONFERENCE

325

1 (The following occurred at sidebar.)

2 THE COURT: The shoe's on the other foot?

3 MR. GULLOTTA: Yes, it's a little awkward but it's a
4 different topic and, obviously, she's expressed pretty severe
5 reservations about being able to render a guilty verdict
6 regardless of her evaluation of the evidence. So I wanted to
7 raise that and address that with the Court because that's a
8 separate topic. It doesn't change my position on the earlier
9 topic but we have someone who now, even if she's able to put
10 aside whatever her feelings were about doctored photos and
11 evaluate the evidence objectively, she might still render a
12 not guilty verdict simply because she doesn't want to put him
13 in prison, a whole different subject.

14 MR. FRISCH: I don't feel she's the right juror for
15 this case.

16 THE COURT: Okay.

17 (In open court; sidebar ends.)

18 THE COURT: Thank you, Ms. Gyalnang. I'm going to
19 excuse you from this jury. You can go to the Central Jury
20 Room and they'll give you further instructions.

21 (Prospective juror excused.)

22 (End of sidebar conference.)

23 (Continued on the next page.)

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JURY SELECTION

326

1 THE COURT: Do you want to try to go through one
2 more person before 3:15?

3 MR. GULLOTTA: Sure.

4 THE COURT: Okay. Katarzyna Mojescik, Number 36,
5 raised her card to number 18 .

6 (Prospective juror enters.)

7 THE COURT: Okay. Good afternoon, Ms. Mojescik.

8 THE PROSPECTIVE JUROR: Good afternoon.

9 THE COURT: Did I pronounce your name correctly?

10 THE PROSPECTIVE JUROR: Katarzyna Mojescik.

11 THE COURT: You raised your juror number yesterday
12 in the big courtroom indicating that you, a family member or
13 close friend worked for a law enforcement agency or
14 organization.

15 THE PROSPECTIVE JUROR: My - I understood that was
16 the question about NYPD police department. So my daughter has
17 ex-boyfriend was the police officer. This is what I --

18 THE COURT: Okay. So it's your daughter's
19 ex-boyfriend?

20 THE PROSPECTIVE JUROR: Yes, but she's married other
21 man.

22 THE COURT: Okay. Is there anything about their
23 relationship, him being a, their former relationship and him
24 being a cop that would affect your ability to be fair and
25 impartial in this case?

JURY SELECTION

327

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Okay. The trial is going to start on
3 either the 16th, on Thursday the 16th or Monday the 20th, and
4 it will last either until the 28th at the latest or the 31st
5 at the latest, depending on when it starts. We don't know
6 yet. We'll know later, a little later today when the judge is
7 going to actually have the trial, but is there any reason why
8 serving on this jury for that period of time would present a
9 genuine hardship for you?

10 THE PROSPECTIVE JUROR: No. Actually, I have the
11 last, March 31st, I have exhibit of, I am part of the exhibit
12 of photography so we have the last day so, afternoon. So I
13 would be want to --

14 THE COURT: You'd want to go to that?

15 THE PROSPECTIVE JUROR: But this is not issue. I
16 can skip this event.

17 THE COURT: Okay. Thank you.

18 Have you, a family member or close friend ever been
19 charged with a crime, convicted of a crime or been the subject
20 of a criminal investigation?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Have you or any member of your family or
23 close friends ever been a witness to a crime?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Have you, a family member or close

JURY SELECTION

328

1 friend ever been a witness in a grand jury investigation or
2 been questioned in any matter by law enforcement officers?

3 THE PROSPECTIVE JUROR: I don't recall. My husband
4 serve in trial but I don't know the case.

5 THE COURT: Was he on trial? Was he the defendant
6 in the case?

7 THE PROSPECTIVE JUROR: No, as me, as a judge -- I
8 mean this same position as I am now.

9 THE COURT: I see. Your husband served on a jury?

10 THE PROSPECTIVE JUROR: Yes. Yes.

11 THE COURT: Okay. Have you or any member of your
12 family or close friends been the victim of a crime?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Have you, a family member or close
15 friend ever been a party to a legal action or a dispute
16 against the United States of America, its agencies or its
17 employees?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: This case has received some degree of
20 media attention. Have you read, heard or seen anything in the
21 media about this case or about the defendant, Douglass Mackey,
22 who was otherwise known as Ricky Vaughn?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: This case involves various individuals
25 including the defendant, Mr. Mackey, who had strong political

JURY SELECTION

329

1 preferences during the 2016 Presidential election campaign
2 including individuals who supported President Donald Trump and
3 individuals who supported Presidential candidate Hillary
4 Clinton.

5 Do you have strong feelings or opinions related to
6 the 2016 Presidential campaign or to the two candidates in
7 that campaign such that it would overcome your duty to judge
8 the facts in this case fairly and impartially?

9 THE PROSPECTIVE JUROR: I'm not clear about this
10 question.

11 THE COURT: Okay. So the testimony will be that
12 there are people involved in this case who had strong beliefs
13 about the 2016 Presidential election. Some supported
14 President Trump. Others may have supported Hillary Clinton.

15 Do you have such strong feelings about either
16 President Trump or Hillary Clinton or the 2016 Presidential
17 campaign and election that would overcome your duty to judge
18 this case fairly and impartially and not based on any bias or
19 prejudice or sympathy you may have for either of those folks?

20 THE PROSPECTIVE JUROR: No. I'm just -- I don't
21 have any, like, attachment as in feelings.

22 THE COURT: Okay. Do you have any experience with
23 what you perceived to be false or misleading information on
24 the internet or social media?

25 THE PROSPECTIVE JUROR: I'm not clear with this

JURY SELECTION

330

1 question.

2 THE COURT: I'll ask it again.

3 So are you on the internet? Do you have social
4 media?

5 THE PROSPECTIVE JUROR: Yes, I have some, Instagram
6 and Facebook.

7 THE COURT: Instagram and Facebook? Okay. Have you
8 had any experiences on Instagram or Facebook or on the
9 internet in general where you perceived something that you saw
10 there to be deliberately false or misleading?

11 THE PROSPECTIVE JUROR: I'm -- I use only Facebook
12 for, like, follow my friends and just for, not for any, like,
13 political issues.

14 THE COURT: Or news or anything like that?

15 THE PROSPECTIVE JUROR: No. No.

16 THE COURT: But on Facebook, it has a thing called a
17 feed where you get -- they send you things.

18 THE PROSPECTIVE JUROR: Like, I don't even see this
19 kind of feeds because I'm -- I just use, like, more for
20 contact with my friends or some, like, pages I like for the
21 art or something like that.

22 THE COURT: Okay. At trial, you may hear some
23 language that you find to be offensive. You shouldn't assess
24 that evidence based on whether you find it to be offensive or
25 not but, rather, on whether that evidence tends to prove or

JURY SELECTION

331

1 disprove the elements of the crime.

2 If you found some evidence to be offensive, would
3 you be able to put aside your feelings about its offensiveness
4 and judge that evidence and all the evidence in the case
5 objectively, impartially and fairly?

6 THE PROSPECTIVE JUROR: This is new experience for
7 me so I, I don't know, that it's, like, for me something
8 completely new so I don't know.

9 THE COURT: It's new for a lot of people who never
10 served on a jury before.

11 THE PROSPECTIVE JUROR: Yes, so...

12 THE COURT: The judge will instruct you that you
13 have to evaluate the evidence that's presented without your
14 personal feelings about it. You have to put all of that
15 aside. You have to just judge the evidence what's called
16 objectively, fairly and impartially without any bias or
17 relying on your feelings. Can you do that?

18 Can you look at a piece of evidence that you may
19 find the words used to be offensive and put aside whatever
20 feelings you have about it being offensive and just see
21 whether that evidence tends to support or not support the
22 charges against Mr. Mackey?

23 THE PROSPECTIVE JUROR: I will try but this is
24 something, new experience for me so I will try the best I'm
25 able to.

JURY SELECTION

332

1 THE COURT: Okay. You live in Brooklyn?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: How long have you lived in Brooklyn?

4 THE PROSPECTIVE JUROR: In Brooklyn, over 20 years.

5 THE COURT: Do you own or do you rent your home?

6 THE PROSPECTIVE JUROR: I own home with my husband.

7 THE COURT: Other than your husband, does anyone
8 live with you in the home?

9 THE PROSPECTIVE JUROR: Yes, we live together.

10 THE COURT: No, other than the two of you.

11 THE PROSPECTIVE JUROR: Yes, we have a few
12 apartments in the building which we rent.

13 THE COURT: Okay. But in your apartment, it's just
14 the two of you?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: What does your husband do for a living?

17 THE PROSPECTIVE JUROR: My husband, he's project
18 manager working in construction field.

19 THE COURT: Okay. And you are a photographer?

20 THE PROSPECTIVE JUROR: I mean I do, photography is
21 my passion.

22 THE COURT: Okay. Do you work otherwise?

23 THE PROSPECTIVE JUROR: Yes, I'm work. I'm, I'm
24 design clothes.

25 THE COURT: You design clothes?

JURY SELECTION

333

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: What is the highest level of education
3 you completed?

4 THE PROSPECTIVE JUROR: I'm graduate in my country
5 from early childhood education.

6 THE COURT: A college degree?

7 THE PROSPECTIVE JUROR: It is between Associate
8 degree and Bachelor in the U.S.

9 THE COURT: It's between those two?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: All right. Have you ever served in the
12 military?

13 THE PROSPECTIVE JUROR: No. Military, is that what
14 you said?

15 THE COURT: Yes.

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Where do you get your news from,
18 newspapers, radio, television, internet, social media?

19 THE PROSPECTIVE JUROR: Actually we don't do the
20 news from TV because our TV broke so I'm just -- if something
21 I see in internet, not watching TV.

22 THE COURT: Okay. Do you go to any particular
23 internet sites to find news?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: It's just whatever comes up?

JURY SELECTION

334

1 THE PROSPECTIVE JUROR: Yes, basically.

2 THE COURT: What about radio, anything?

3 THE PROSPECTIVE JUROR: Radio? I'm listening to
4 music from my CDs.

5 THE COURT: And you told us that you have a Facebook
6 and Instagram account, correct?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: And that's it?

9 THE PROSPECTIVE JUROR: That's it.

10 THE COURT: How often do you use them?

11 THE PROSPECTIVE JUROR: Daily but how many times?
12 Morning, just a few times every day, like maybe four.

13 THE COURT: Are you concerned at all about the
14 reliability of information that you find on the internet and
15 social media?

16 THE PROSPECTIVE JUROR: Can you -- I don't
17 understand exactly the question.

18 THE COURT: Okay. We need to have a conference with
19 the Judge so if you could go with my law clerks outside for a
20 few minutes, and then we'll bring you back in, okay, when
21 we're done.

22 THE PROSPECTIVE JUROR: Okay.

23 (Prospective juror exits.)

24 (Recess taken.) (Court resumes.)

25 THE CLERK: Do you want to finish with Juror 36?

JURY SELECTION

335

1 THE COURT: Before I do, I'm inclined to let
2 everyone who is in 2F, the ones who have been cleared already,
3 to go home for the day. I will go in and give them the
4 appropriate admonitions and then release them and return
5 tomorrow at, tomorrow after lunch, because we're not going to
6 be done before then.

7 Is there any objection to that?

8 MR. GULLOTTA: No, Your Honor. You mean the 16 that
9 have been selected?

10 THE COURT: Yes.

11 MR. FRISCH: No objection.

12 MR. GULLOTTA: No objection.

13 THE COURT: Let me do that now and then we'll
14 continue with Ms. Mojescik.

15 MR. FRISCH: And just to protect the record, you'll
16 give an instruction to these folks not to seek out media, not
17 to look at media and all that?

18 THE COURT: Yes, not to talk to anybody about the
19 case, not to talk to you in the halls and to report any
20 attempts to contact them.

21 MR. GULLOTTA: And, Your Honor, the jurors know that
22 we're not supposed to talk to them, right?

23 THE COURT: Yes.

24 MR. GULLOTTA: So if we see them in the hallway,
25 we're not being rude.

JURY SELECTION

336

1 THE COURT: I'll remind them of that.

2 (The following occurred in Courtroom 2F; prospective
3 jurors present.)

4 THE COURT: Good news but not great news and perhaps
5 some bad news.

6 The bad news is we're going to have to continue the
7 jury selection tomorrow. We're going very slowly,
8 unfortunately, and we will not be done with the pool of,
9 selecting the pool of 36 to 40 people from which the parties
10 will pick the jury.

11 The good news is I'm releasing you today. You can
12 go home or go to work or go watch a movie, whatever you want
13 to do. I would like you to come back tomorrow at 2:00 p.m.
14 because what's going to happen is we're going to do what we
15 did with you for the rest of the day and in the morning
16 tomorrow and hopefully by then we will have enough folks to
17 add to you to have our group of 36 to 40 people. I can't
18 guarantee that we'll reach that by 2 o'clock. It's going to
19 be my goal. Then when you come back and join them, the
20 parties will exercise their peremptory challenges and we will
21 have our jury.

22 The trial is not going to start on Thursday. It's
23 going to start on Monday. Judge Garaufis just had a
24 conference with the parties and decided to start it on Monday
25 but we'll give you further instructions on that once we pick

JURY SELECTION

337

1 the jury.

2 So go home or go wherever you want. What's the
3 saying? You don't have to go home but you can't stay here or
4 something like that.

5 I need to impress upon you folks not to do any
6 internet research about this case. If you see something pop
7 up on your cell phone or you see something on TV, don't look
8 at it, turn it off, change the channel, don't read it if you
9 see it in the papers and certainly don't do any independent
10 research about it.

11 If you see any of the attorneys or the parties in
12 the hall tomorrow when you come back or throughout the life of
13 the trial, you don't talk to them. They're not going to talk
14 to you. They may not even acknowledge you. They know you're
15 there but they're not going to say hello or anything like that
16 because interactions between the parties and the jurors have
17 to be in court.

18 If anyone approaches you during jury selection or if
19 you're selected as a juror and asks you about the case or
20 anything like that, you need to bring that to the Court's
21 attention. No one should be having any interaction with you
22 anywhere other than in court.

23 If you're asked by your loved ones, just tell them,
24 "I am in the process of being selected for a jury to serve in
25 a criminal case," and that's it, "I can't tell you anything

JURY SELECTION

338

1 about it," because you actually don't know anything about it.
2 You just know the allegations. There's no evidence yet. So
3 that's what we're going to do.

4 Oh, Ms. Santana, okay. I'll just recap for
5 Ms. Santana.

6 So we're going to -- the trial is going to start
7 Monday. The jury selection will continue through tomorrow.
8 You can go home now, come back tomorrow at 2:00 p.m., and by
9 then, we hope to have the remainder of the panel from which
10 we're going to pick the jurors.

11 Don't do any internet research. Don't talk to
12 anyone about the case. If anyone approaches you about it,
13 please let me know. If you see any of the lawyers out in the
14 hallway or the parties, don't talk to them. They're not going
15 to talk to you. And if you see anything on TV or anything
16 like that or in the papers, don't read it, don't watch it.
17 Okay?

18 Thank you, folks. I'm really sorry this is taking
19 so long. This is unusual. I have had only one other jury
20 selection go two days. I have never had a jury selection go
21 three days.

22 THE PROSPECTIVE JUROR: Just a question. Regardless
23 of whether I'm picked or not, does that mean that most likely
24 we do not have to be here Thursday and Friday or you don't
25 know that yet?

JURY SELECTION

339

1 THE COURT: The only way you would have to be here
2 Thursday or Friday is if the jury selection lasted that long
3 and I seriously doubt it.

4 THE PROSPECTIVE JUROR: Okay.

5 THE COURT: We'll have a better idea tomorrow
6 afternoon.

7 THE PROSPECTIVE JUROR: Okay.

8 THE COURT: But the trial is not going to start
9 until Monday. So if we finish tomorrow with the jury
10 selection, your Thursday and Friday are yours, you can meet
11 with the landscape architect.

12 All right. Thank you, folks.

13 (Continued on next page.)

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JURY SELECTION

340

1 (The following occurred in Courtroom 2E.)

2 THE COURT: We need to continue with Juror Number
3 36, but Juror Number 176, who I believe is the last juror on
4 our list, if not, second to the last, Derrick Flores, has
5 indicated that he has a trip planned from tomorrow through the
6 19th. That means that he has no problem with the trial, but
7 tomorrow he won't be able to be part of the selection.

8 Any objection to excusing him?

9 MR. FRISCH: None.

10 MR. GULLOTTA: No objection.

11 THE COURT: Okay.

12 Privately tell Mr. Flores, Number 176 that he's
13 excused.

14 And then I guess, Barbara, you can bring in -- in a
15 little bit, I want everybody to be here.

16 Oh, you're going to do it by yourself.

17 MR. GULLOTTA: They'll be back pretty quickly, but
18 I'm fine to start now.

19 All right, bring in Number 36.

20 Ms. Mojescik, number 36, correct?

21 (Prospective juror enters the courtroom.)

22 THE COURT: Hi. I think we left off with -- I'm
23 sorry, folks, do you remember where we left off with
24 Ms. Mojescik?

25 MR. GULLOTTA: I think hobbies was the last

JURY SELECTION

341

1 question.

2 THE COURT: Hobbies. That's what I thought. Okay.

3 I asked you if you had hobbies other than

4 photography.

5 THE PROSPECTIVE JUROR: Yes, correct.

6 THE COURT: And what did you tell me?

7 THE PROSPECTIVE JUROR: That's my hobbies.

8 THE COURT: Those are your hobbies? Okay.

9 And you told me -- you told us what your work was.

10 Okay.

11 I'm sorry, there are so many of you that I've been

12 speaking with over the past two days it's -- sometimes I

13 forget.

14 Your television broke, right, so you don't watch

15 much television.

16 THE PROSPECTIVE JUROR: Actually, now we have new

17 TV, but previous two years, we didn't watch.

18 THE COURT: Are there any TV shows or radio programs

19 that you watch or listen to on a regular basis?

20 THE PROSPECTIVE JUROR: Actually, I don't have any

21 favorite.

22 THE COURT: Is there any reason why you cannot be

23 fair and impartial in this case?

24 THE PROSPECTIVE JUROR: I don't know anything of

25 this case, so I don't know that.

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1 THE COURT: So in order to -- well, from what you do
2 know about the case, and of course you haven't seen any of the
3 evidence yet, there's an allegation that Mr. Mackey conspired
4 with others to distribute false or misleading information on
5 the internet concerning the 2016 presidential election
6 campaign.

7 With that basic understanding of the allegations, do
8 you see any reason why you could not be fair and impartial in
9 this case?

10 THE PROSPECTIVE JUROR: I don't know, but this is
11 really hard for me to say now. I would try to be objective.

12 THE COURT: You will be objective.

13 THE PROSPECTIVE JUROR: I will try, but this is
14 really hard to...

15 THE COURT: Is it hard in the sense that you're
16 nervous?

17 THE PROSPECTIVE JUROR: Yeah, I'm so nervous.

18 THE COURT: That's completely understandable.

19 THE PROSPECTIVE JUROR: This is so... I'm pretty
20 nervous.

21 THE COURT: Okay. That's completely understandable.

22 But is there anything that would -- that immediately
23 comes to your mind that says, oh, yeah, I would be favored --
24 I would favor one side over the other in this case? I don't
25 know which side it would be, but anything comes to your mind

JURY SELECTION

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1 to make you feel that way now?

2 THE PROSPECTIVE JUROR: I said that I have emotional
3 attachment to this case, so that was the question.

4 THE COURT: You have an emotional --

5 THE PROSPECTIVE JUROR: I don't have.

6 THE COURT: That's really what we're getting at,
7 whether you have any emotional attachment or sympathy or
8 bias --

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: -- one way or the other.

11 THE PROSPECTIVE JUROR: I don't have.

12 THE COURT: Okay.

13 Any questions for followup?

14 MR. GULLOTTA: No, Your Honor, thank you.

15 MR. FRISCH: No, thank you. We're good.

16 THE COURT: Okay. We are going to -- you're going
17 to continue in the jury selection, but not until tomorrow at
18 2:00. That's -- everyone who is gone past at this point, I've
19 allowed them to go home and not come back tomorrow morning but
20 come back tomorrow afternoon.

21 So come back tomorrow afternoon to the central jury
22 room where you started off yesterday.

23 Don't talk to anybody about the case. Don't do any
24 internet research about the case. If you see anything about
25 it on TV, hear it on the radio, see it in your Facebook or

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1 whatever, ignore it. Don't look at it.

2 THE PROSPECTIVE JUROR: All right.

3 THE COURT: And if you see the parties or the
4 lawyers tomorrow in the hallway, don't talk to hem. They're
5 not going to talk to you. They're not being rude, it's that
6 any interaction with jurors has to be in court. It can't be
7 outside in the halls. Okay?

8 THE PROSPECTIVE JUROR: Okay.

9 THE COURT: Thank you.

10 (Prospective juror exits the courtroom.)

11 THE COURT: Juror Number 149. The one you know,
12 Ms. Tannenbaum?

13 How do you know her or him?

14 MS. TANNENBAUM: We studied abroad together.

15 THE COURT: How long ago was that?

16 MS. TANNENBAUM: March of 20 -- year to a March of
17 2020. January, my sincere apologies.

18 THE COURT: Do you consider her a friend?

19 MS. TANNENBAUM: No.

20 We are not friends. We follow each other on social
21 media and like dinners. Not much else.

22 THE COURT: You don't want to take people out of the
23 order. Tell her she's going to have to wait.

24 It may be -- she's listed -- just so you know, I
25 don't know if you see the job listings on the list. She's

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1 listed as a financial crimes and analytics associate.

2 Don't know exactly what that means, but it sounds
3 like it's in the legal or quasi-legal grounds, so there may be
4 other issues with her.

5 But I think we have to let her be for now. Okay,
6 I'm sorry, maybe you should switch for a while.

7 Okay, the next juror is Anne Lin, Number 37. She
8 answered affirmatively to Questions 15 and 17.

9 We are currently up to 17.

10 (Prospective juror enters the courtroom.)

11 THE COURT: We'll go today to 5:30.

12 Good afternoon Ms. Lin.

13 THE PROSPECTIVE JUROR: Good afternoon.

14 THE COURT: You indicated that you have a background
15 in the law.

16 THE PROSPECTIVE JUROR: Oh. Yes, I used to work as
17 a labor policy researcher Cornell University. I worked in the
18 employment disability institute, so I took a law class on the
19 Americans with Disabilities Act, which is a continuing
20 education course.

21 THE COURT: Was that -- was that in the ILR School?

22 THE PROSPECTIVE JUROR: Yes, I work for the ILR
23 School.

24 THE COURT: Did you -- is that going to impact your
25 ability to be fair and impartial in this case?

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1 THE PROSPECTIVE JUROR: No, it wouldn't.

2 THE COURT: And there should be no overlap in the
3 law, between that and this, but you have to take the law from
4 Judge Garaufis. He'll tell you the final jury instructions
5 and what the law is.

6 You can apply his law?

7 THE PROSPECTIVE JUROR: Yes, that's fine.

8 THE COURT: Okay.

9 And you had indicated also that you have close
10 friends or relatives who are lawyers or work for lawyers or a
11 judge or in the courthouse.

12 Tell me about that, please.

13 THE PROSPECTIVE JUROR: I have friends who I used to
14 work with at Prisoners Legal Services of New York. So I used
15 to work in their comptroller -- yeah, Office of the
16 Comptroller there. And, yeah, I have friends who are private
17 lawyers. Friends who are in law school. And I have some
18 friends who have retired. Were lawyers for like EPA and what
19 else? Oh, also I've worked in a field where I interact with
20 lawyers.

21 THE COURT: Okay. You are not a lawyer, though?

22 THE PROSPECTIVE JUROR: No, I'm not.

23 THE COURT: So my questions.

24 Your work experience with these people, friendships,
25 you may have discussed the law. Highly unlikely that unless

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1 there were any criminal practitioners, criminal law
2 practitioners, highly unlikely that there'll be any overlap
3 with the law of this case.

4 But can you put aside anything you may have learned
5 from them about the law, or learned in your own professional
6 experience about the law and judge this case fairly and
7 impartially based on the evidence presented in court and the
8 law as given to you by Judge Garaufis?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Okay. So we just found out that the
11 trial is the going to start on Monday the 20th and last until
12 the Friday the 31st, at the very latest, but more likely it
13 will end earlier in that week.

14 Is there any reason were you selected to serve on
15 this jury that that would present a genuine hardship for you?

16 THE PROSPECTIVE JUROR: There's no reason. That
17 would be fine.

18 THE COURT: Have you, a member of your family or
19 close friend ever been charged with a crime, convicted of a
20 crime or been the subject of a criminal investigation?

21 THE PROSPECTIVE JUROR: Wait. Could you repeat
22 that?

23 THE COURT: Sure.

24 You, or a member of your family or close friend ever
25 been charged with a crime, convicted of a crime or been the

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1 subject of a criminal investigation?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Tell me about it.

4 THE PROSPECTIVE JUROR: I had one friend who had a
5 criminal drug charge. I believe that he was possessing
6 marijuana while on a train.

7 THE COURT: And is there anything about that that
8 would affect you ability to be fair and impartial in this
9 case?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: You or any familiar -- excuse me. You,
12 or any family member or close friend ever been a witness to a
13 crime?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Briefly tell me about that.

16 THE PROSPECTIVE JUROR: Okay, so myself, I had a
17 partner who stalked me, and I had to get a restraining order.

18 THE COURT: Anything about that that would affect
19 your ability to be fair and impartial in this case?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Anything else, any other witnesses of a
22 crime?

23 THE PROSPECTIVE JUROR: Not that I can think of
24 right now.

25 THE COURT: All these questions go to the same group

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1 of people, you, a family member or a close friend.

2 Witness in a grand jury investigation or been
3 questioned in any matter by law enforcement officers, other
4 than the --

5 THE PROSPECTIVE JUROR: The drug charge?

6 THE COURT: -- the drug charge or the stalking.

7 THE PROSPECTIVE JUROR: There was another friend who
8 was -- he was convicted of a drug charge, but I don't know any
9 of the details. He's in law school now, so I think they
10 were -- they purged his record.

11 THE COURT: What about a victim of a crime, other
12 than the stalking that you mentioned?

13 THE PROSPECTIVE JUROR: None that I can think of
14 right now.

15 THE COURT: The same group of people. Anyone have
16 a -- involved in a legal action or dispute with the United
17 States, its agencies or its employees?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Now this case has received some degree
20 of media attention.

21 Have you read, heard or seen anything in the media
22 about this case or about the defendant Douglass Mackey a/k/a
23 Ricky Vaughn?

24 THE PROSPECTIVE JUROR: No, actually.

25 THE COURT: This case involves various individuals,

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1 including the defendant Douglass Mackey, who had strong
2 political preferences during the 2016 presidential election
3 campaign, including individuals who supported President Donald
4 Trump and individuals who supported presidential candidate
5 Hillary Clinton.

6 Do you have strong feelings or opinions related to
7 the 2016 presidential election campaign, or to two the
8 candidates, such that it would overcome your duty to judge the
9 facts in this case fairly and impartially?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Do you have any experience with what you
12 perceive to be deliberately false or misleading information on
13 the internet or social media?

14 THE PROSPECTIVE JUROR: Yes, to some extent. I used
15 to work for Facebook. At the time.

16 THE COURT: When did you work for Facebook?

17 THE PROSPECTIVE JUROR: Between March 2020 and
18 December -- or sorry, January 2022.

19 THE COURT: Okay. What did you do for Facebook?

20 THE PROSPECTIVE JUROR: I worked as a user
21 experience researcher.

22 THE COURT: Okay. And during that work experience
23 you came across issues of deliberately false and misleading
24 information?

25 THE PROSPECTIVE JUROR: I worked within internal

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1 tools, and so some of those tools involved tracking
2 information.

3 THE COURT: Okay. Some of the information that
4 those tools tracked was deemed to be false or misleading or?

5 THE PROSPECTIVE JUROR: It was triage process that I
6 was aware of, but I wasn't directly involved in that type of
7 project.

8 I researched like recruiting processes with like
9 sophomore and juniors use tools.

10 THE COURT: Any other experiences with what you
11 perceive to be deliberately false or misleading information on
12 the internet or Facebook or other social media?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Would any of your experiences with such
15 information affect your ability to be fair and impartial in
16 this case?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: At trial, you may hear some language
19 that you may find to be offensive, and you shouldn't assess
20 evidence based on whether you find it to be offensive or not.
21 But based on whether that evidence tends to prove or disprove
22 the elements of the crime.

23 If you found some of the evidence offensive, would
24 you be able to put aside any feelings of offensiveness and
25 objectively hear and consider the evidence fair and

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1 impartially?

2 THE PROSPECTIVE JUROR: Yes, I can consider it
3 impartially.

4 THE COURT: You live in Brooklyn?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: How long have you lived in Brooklyn?

7 THE PROSPECTIVE JUROR: Let's see. Eight years.

8 THE COURT: Do you own or do you rent?

9 THE PROSPECTIVE JUROR: I rent.

10 THE COURT: Do you live with anyone?

11 THE PROSPECTIVE JUROR: Not right now. My dog.
12 Sorry.

13 THE COURT: Have you ever been married?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: No children?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: And who are you working for currently?

18 THE PROSPECTIVE JUROR: The Financial Industry
19 Regulatory Authority, FINRA.

20 THE COURT: And what do you do for them?

21 THE PROSPECTIVE JUROR: I'm a principal user
22 experience researcher.

23 THE COURT: Is that your like speciality, user
24 experience researcher?

25 THE PROSPECTIVE JUROR: So what I do is I research

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1 how people and processes do a certain type of action. And I
2 work with a digital product team to create a solution. And I
3 gather all the risks and hazards and understand whether or not
4 what they've built fits within that. And I have to be
5 basically very unbiased during that process.

6 That is like even if it upsets the product team or
7 the design team, I have to tell them. And, yeah, I've worked
8 in areas of like medical devices, aviation, and internal
9 tools.

10 THE COURT: What is your highest level of education
11 that you completed?

12 THE PROSPECTIVE JUROR: I have a master's degree in
13 social science.

14 THE COURT: Have you ever served in the military?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Where do you get your news from?
17 Newspapers? Radio? Television? Internet? Social media?
18 Podcasts? All of the above?

19 THE PROSPECTIVE JUROR: Probably all the above. I
20 think podcasts. Social media. Usually -- do you mean
21 specific sources?

22 THE COURT: Well, tell me television and any
23 particular sources from television?

24 THE PROSPECTIVE JUROR: I watch YouTube sometimes.
25 They have like comedy videos that unpack the news. So like

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1 something along those lines.

2 But, yeah, I watch news radios that are usually
3 comedy about, you know, what's going on in the news.

4 THE COURT: Anything broadcast television?

5 THE PROSPECTIVE JUROR: No, I don't have access, and
6 no.

7 THE COURT: Tell me how you use the internet and
8 social media? What particular platforms? How do you use
9 them? How frequently.

10 THE PROSPECTIVE JUROR: I use mostly Instagram. I
11 have Instagram for my dog, and I consume product pet videos.

12 And I have a personal Instagram where I just share
13 what's going on in my life. I have Twitter, but I don't
14 really use it. I don't post much, I just read what's on
15 there.

16 What else? I have LinkedIn. More professional.
17 And I also have Facebook, which I've had since 2005, so been
18 using that consistently.

19 THE COURT: And the frequency of your social media
20 use, it is daily?

21 THE PROSPECTIVE JUROR: Yeah.

22 THE COURT: Frequently? Many times a day?

23 THE PROSPECTIVE JUROR: Yeah. Yeah. Probably.

24 THE COURT: Okay. Are you concerned about the
25 reliability of the information that you find on the internet

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1 and social media?

2 THE PROSPECTIVE JUROR: Yes. I try to be as
3 objective as I can be but, you know, we're all human we all
4 have own other biases so we just have to do our best.

5 THE COURT: Will your concerns about the reliability
6 of information you find on the internet and social media
7 affect your ability to be fair and impartial in this case?

8 THE PROSPECTIVE JUROR: I don't think it will impact
9 my ability.

10 THE COURT: Have you ever been involved in voter
11 education, voter registration, or any "get out the vote"
12 efforts?

13 THE PROSPECTIVE JUROR: Yes. In 2006 I was part of
14 the John Kerry campaign all over Massachusetts as part of an
15 internship.

16 THE COURT: And part of that was voter education and
17 registration?

18 THE PROSPECTIVE JUROR: We reached out to
19 independent voters.

20 THE COURT: But is that the only thing? The only
21 time?

22 THE PROSPECTIVE JUROR: Yeah, probably the -- yeah.
23 In regards to voting, yes.

24 THE COURT: Other than your dog's Instagram account,
25 do you have any hobbies?

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1 THE PROSPECTIVE JUROR: Yeah, sometimes I volunteer
2 for Nightlife Events. Like the parties. I have friends who
3 are DJs and dancers and performers, so I will volunteer for
4 those evince.

5 And then I'm also involved in community organizing
6 to create a dog park. And I watch a lot of like true crime
7 like murder mysteries.

8 THE COURT: What television shows or radio programs
9 do you regularly watch or listen to, if any?

10 THE PROSPECTIVE JUROR: Oh, Marketplace, which is --

11 THE COURT: NPR?

12 THE PROSPECTIVE JUROR: There's an NPR Daily.
13 There's something called like Internet Today. They have like
14 a weekly news, you know, update every couple of days.

15 THE COURT: All right. Anything else that comes to
16 mind?

17 Not that it has to just...

18 THE PROSPECTIVE JUROR: Washington Post
19 occasionally.

20 THE COURT: Can you be fair and impartial in this
21 case?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Is there anything about this case that
24 would cause you to favor one side over the other?

25 THE PROSPECTIVE JUROR: I hesitate, but it's only

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1 because I have a family member who has very different views
2 then I do, but I feel like it's important to hear him out as
3 well. Even though we have opposing views, I try to like be
4 patient and listen. So I think no but it is also, you know,
5 like up to, you know, like hear I can't, I can't.

6 THE COURT: Does it depend on -- so if the
7 government -- the government has the burden of proof here,
8 proof beyond a reasonable doubt that Mr. Mackey is guilty.

9 If the government would fail to meet that burden of
10 proof in your mind, it wouldn't -- it didn't -- it wouldn't
11 give you or it didn't give you sufficient evidence from which
12 you could determine beyond a reasonable doubt that Mr. Mackey
13 is guilty, would you have any hesitancy in rendering a verdict
14 of not guilty?

15 THE PROSPECTIVE JUROR: No hesitancy.

16 THE COURT: Flip side.

17 If the government would prove beyond a reasonable
18 doubt to you that Mr. Mackey was guilty, would you have any
19 hesitancy in rendering a verdict of guilty?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Will you be able to set aside any
22 sympathies or biases you may have for any of the parties in
23 this case and render an impartial verdict based solely on the
24 evidence presented in court and the law as given to you by
25 Judge Garaufis?

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Any follow-up questions for Ms. Lin?

3 MR. GULLOTTA: No, Your Honor.

4 MR. FRISCH: No, Your Honor. Thank you.

5 THE COURT: Thank you, Ms. Lin.

6 So you have made it past this round. We're going to
7 continue the jury selection with your colleagues now. We are
8 far short of the number that we need for -- to pick the jury,
9 so we're going to have to continue tomorrow.

10 But you are excused -- you're not excused, I'm
11 sending you home, or to wherever you want to go, and you need
12 to come back tomorrow at 2 p.m. to continue the selection.

13 At that point I hope we have -- we'll have enough
14 folks for our pool from which we will exercise, or the lawyers
15 will exercise their preemptory challenges and come up to a
16 jury.

17 Don't talk to anyone about the case. Don't do any
18 internet research. If you see anything on the internet, on
19 TV, in the papers, ignore it.

20 If you see the lawyers in the hall, they're not
21 going to talk to you. They're not being rude. You shouldn't
22 talk to them. Interactions can only happen in a courtroom.

23 If anyone approaches you about the case and wants to
24 talk to you about it, you need to let me know. Okay?

25 THE PROSPECTIVE JUROR: Okay.

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1 THE COURT: All right. Thank you.

2 (Prospective juror exits the courtroom.)

3 THE COURT: Candace Webb, Number 38, is next. She
4 answered affirmative to Questions 12, 15 and 19.

5 (Prospective juror enters the courtroom.)

6 THE COURT: Good afternoon, Ms. Webb.

7 THE PROSPECTIVE JUROR: Good afternoon, Judge.

8 THE COURT: You indicated that you have served on
9 the jury before.

10 THE PROSPECTIVE JUROR: Yes, I have.

11 THE COURT: Can you tell me about that, please.

12 THE PROSPECTIVE JUROR: Yes. It was for state and I
13 was in Queens. Long Island City. It was a small case
14 against -- it was between a citizen and Port Authority.

15 THE COURT: So it was not a criminal case, it was a
16 civil case.

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: And how long ago was that?

19 THE PROSPECTIVE JUROR: I believe it was 2016.

20 THE COURT: Okay. And did you render a verdict?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. You also indicated that you have
23 a background in the law, or have taken courses in the law.

24 THE PROSPECTIVE JUROR: Yeah, I have an accounting
25 degree that I took in college. So one of the requirements was

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1 doing law, business law, particularly.

2 THE COURT: All right, this case -- so that's the
3 only course you took, business law course?

4 THE PROSPECTIVE JUROR: I believe I also did just
5 normal other courses in regards to law.

6 But with my major, I did more into business law.

7 THE COURT: Okay.

8 THE PROSPECTIVE JUROR: Yeah.

9 THE COURT: When it comes time for the jury to
10 deliberate, the judge will instruct the jury on the law.
11 Judge Garaufis will do that. He'll tell you what the law is
12 that you have to apply to the facts that you find. You have
13 to take the law from Judge Garaufis. You can't apply any
14 other law that you think might exist or should exist or that
15 you learned about.

16 Can you do that?

17 THE PROSPECTIVE JUROR: Yeah, I'll be able do that.

18 THE COURT: You, or a family member, close friends
19 have relationships with law enforcement officers?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Tell me, please.

22 THE PROSPECTIVE JUROR: It's my dad. He has a close
23 friend, I believe it's a retired detective.

24 THE COURT: With the New York City Police
25 Department?

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1 THE PROSPECTIVE JUROR: I believe so, yes.

2 THE COURT: Is there anything about that
3 relationship that would affect your ability to be fair and
4 impartial in this case.

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: I don't know if you've learned anything
7 about the law from him, but same thing with your business law
8 courses. It's Judge Garaufis, he's the arbiter of the law
9 here.

10 You can follow his law?

11 THE PROSPECTIVE JUROR: Uh-huh, yes. Understand.

12 THE COURT: Okay, great.

13 So the case is going to start, the trial, on Monday
14 March 20th. Judge Garaufis just moved it slightly and it's
15 set to conclude no later than March 31st.

16 Is there any reason why severing on the jury during
17 that period of time would cause you a genuine hardship?

18 THE PROSPECTIVE JUROR: I don't believe so. I just
19 have engagements for the end of April. So I don't believe it
20 has any...

21 THE COURT: If the trial's still going on then, we
22 got a problem. Not happening.

23 Have you, a family member or close friend ever been
24 charged with a crime, convicted of a crime, been the subject
25 of a criminal investigation, a witness to a crime, involved in

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1 a grand jury investigation, or questioned by law enforcement,
2 or a victim of a crime?

3 THE PROSPECTIVE JUROR: Not to my knowledge, no.

4 THE COURT: What about the same group of people,
5 you, family member or close friend ever been a party to a
6 legal action or dispute against the United States any of its
7 agencies or employees?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Now this case has received some degree
10 of media attention.

11 Have you read, heard or seen anything in the media
12 about this case or about the defendant Douglass Mackey,
13 otherwise known as Ricky Vaughn?

14 THE PROSPECTIVE JUROR: No, I haven't.

15 THE COURT: This case involve individuals, including
16 the defendant Douglass Mackey, who had strong political
17 preferences during the 2016 presidential election campaign,
18 including individuals who supported President Donald Trump and
19 individuals who supported presidential candidate Hillary
20 Clinton.

21 Do you have strong feelings or opinions related to
22 the 2016 presidential election campaign, or to those two
23 candidates, such that it would overcome your duty to be fair
24 and impartial in the case?

25 THE PROSPECTIVE JUROR: No.

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1 THE COURT: Do you have any experience with what you
2 perceive to be false, deliberately false or misleading
3 information on the internet or social media?

4 THE PROSPECTIVE JUROR: In regard to this case?

5 THE COURT: In regards to anything.

6 THE PROSPECTIVE JUROR: No, I don't believe so.

7 THE COURT: At trial, you may hear some language
8 that you may find to be offensive. You should not assess that
9 evidence based on whether you find it to be offensive or not,
10 but whether rather -- whether that evidence tends to prove or
11 disprove the elements of the crime.

12 If you found some evidence to be offensive, would
13 you be able to put aside your feelings about its offensiveness
14 and objectively hear and consider the evidence impartially and
15 fairly?

16 THE PROSPECTIVE JUROR: Yeah. Uh-huh.

17 THE COURT: You live in Jamaica?

18 THE PROSPECTIVE JUROR: Right.

19 THE COURT: How long?

20 THE PROSPECTIVE JUROR: All my life.

21 THE COURT: Do you own, do you rent, or neither?

22 THE PROSPECTIVE JUROR: I rent.

23 THE COURT: You rent, okay.

24 Do you live with anyone?

25 THE PROSPECTIVE JUROR: Yes, I do.

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1 THE COURT: Who did you live with?

2 THE PROSPECTIVE JUROR: With my two parents.

3 THE COURT: What do they do for a living?

4 THE PROSPECTIVE JUROR: My parents and my sister.

5 My mom does not have an occupation. And my dad is a
6 TLC driver.

7 THE COURT: And your sister's working?

8 THE PROSPECTIVE JUROR: No, she's in high school.
9 She's 17.

10 THE COURT: And what do you do for a living?

11 THE PROSPECTIVE JUROR: I work at Clariton
12 (phonetic).

13 THE COURT: In what capacity?

14 THE PROSPECTIVE JUROR: I work in customer
15 operations.

16 THE COURT: Married? Children?

17 THE PROSPECTIVE JUROR: No. No to both of them.

18 THE COURT: What's the highest level of education
19 you completed?

20 THE PROSPECTIVE JUROR: My bachelor's in accounting.

21 THE COURT: Ever served in the military?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Where do you get your news from?

24 Newspapers? Radio? TV? Internet? Social media? Podcasts?
25 Other places?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: Podcasts.

2 THE COURT: Any particular podcasts that you watch
3 or I guess listen to?

4 THE PROSPECTIVE JUROR: Axios.

5 THE COURT: Recently?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: What is it called?

8 THE PROSPECTIVE JUROR: Axios. It's a podcasts on
9 Apple.

10 THE COURT: It's a news -- it's about news?

11 THE PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: Do you use internet and social media?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: What platforms? How do you use them and
15 how frequently?

16 THE PROSPECTIVE JUROR: I have Instagram. And
17 Snapchat. What else do I have?

18 THE COURT: Facebook?

19 THE PROSPECTIVE JUROR: Facebook.

20 THE COURT: Twitter.

21 THE PROSPECTIVE JUROR: Not Twitter, no.

22 THE COURT: TikTok.

23 THE PROSPECTIVE JUROR: TikTok, yes, I do use it,
24 but not -- not right now because it's live and I have a job.

25 THE COURT: Are you at all concerned about the

JURY SELECTION

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1 reliability of information you find on the internet and social
2 media?

3 THE PROSPECTIVE JUROR: I'm sorry, can you repeat
4 that?

5 THE COURT: Are you concerned at all about the
6 reliability -- excuse me, the reliability of information that
7 you find on the internet and social media?

8 THE PROSPECTIVE JUROR: Oh, yes, I know not
9 everything is credible sources.

10 THE COURT: Well, will your concern about the
11 reliability of information on the internet and social media
12 affect your ability to be fair and impartial in this case? In
13 other words, can you decide this case based on the evidence
14 presented in court, rather than your concern that you may have
15 seen false or misleading information somewhere else on the
16 internet?

17 THE PROSPECTIVE JUROR: Yes. I will be.

18 THE COURT: Or social media?

19 Have you ever been involved in voter education,
20 voter registration or any "get out the vote" efforts?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Do you have any hobbies?

23 THE PROSPECTIVE JUROR: Yeah, I do.

24 THE COURT: What are they?

25 THE PROSPECTIVE JUROR: I read a lot. And I also

JURY SELECTION

367

1 dance. So dance and reading.

2 THE COURT: What television shows or radio programs
3 do you regularly watch or listen to? Not news related.

4 THE PROSPECTIVE JUROR: I don't really listen to the
5 radio. But I watch a lot of like shows on different platforms
6 like Netflix or Hulu.

7 THE COURT: Can you be fair and impartial in this
8 case?

9 THE PROSPECTIVE JUROR: Uh-huh. Correct.

10 THE COURT: Is there anything about this case that
11 would cause you to favor one side over the other?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Will you be able to set aside any
14 sympathies or biases you may have for any of the parties in
15 this case and render an impartial verdict based solely on the
16 evidence presented in court and the law as given to by
17 Judge Garaufis?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: Any questions? Follow up?

20 MR. GULLOTTA: No, Your Honor. Thank you.

21 MR. FRISCH: No questions.

22 THE COURT: Ms. Webb, you have made it past this
23 round. You're going to have to come back tomorrow at 2 p.m.
24 to continue. Hopefully at that point we'll have enough folks
25 that we can pick our jury, and it will be over tomorrow

JURY SELECTION

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1 afternoon. Well, the selection will be over.

2 You can go home now. Please do not do any internet
3 research about this case or about Mr. Mackey.

4 Do not talk to anyone about it. You can simply say
5 I'm in jury selection in a criminal case.

6 If you see any of the parties or the lawyers, don't
7 talk to them. They will not talk to you. They are not being
8 rude, they're simply following the rules, which require all
9 contact with jurors to be in court.

10 If anyone approaches you about this case, please let
11 me know. Okay? And you can do that through Miriam or my law
12 clerks. All right?

13 THE PROSPECTIVE JUROR: Okay.

14 THE COURT: Have a great evening.

15 THE PROSPECTIVE JUROR: Thank you, Judge.

16 (Prospective juror exits the courtroom.)

17 (Pause in the proceedings.)

18 THE COURT: Juror Number 82, Ms. Fizza Aijaz, has
19 indicated that she's missed two classes already and she has a
20 lab tomorrow that she is going to miss unless she is excused.

21 Any objection to excusing her?

22 MR. GULLOTTA: No objection, Your Honor.

23 THE COURT: All right. Tell Ms. Aijaz -- quietly
24 tell, Ms. Aijaz, Juror Number 82, that she is excused. Pull
25 her outside before you do that.

JURY SELECTION

369

1 THE COURTROOM DEPUTY: 92, it's an interpreter, and
2 has an appointment seeing a client at Hackensack Hospital at
3 11:30. I didn't ask what language.

4 THE COURT: Rafiq Chowdhury, Juror Number 92.
5 How many more do you have?

6 (Discussion was had off the record.)

7 THE COURT: Mr. Chowdhury, Juror Number 92 has --
8 he's an interpreter, he has to interpret tomorrow at 11:00 at
9 a hospital.

10 THE COURTROOM DEPUTY: Hackensack Hospital.

11 MR. FRISCH: No objection.

12 MR. PAULSEN: No objection.

13 THE COURT: Excuse Mr. Chowdhury.

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15 (Continued on the following page.)

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JURY SELECTION

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1 THE COURT: What we're going to do, unless there's
2 any objection is jurors -- there's seven people we can get
3 through today maybe.

4 MR. GULLOTTA: Let's do it.

5 THE COURT: Jurors through number 45 have to stay.
6 Everyone else can leave and come back tomorrow at 9:15. Give
7 them the other information that jury selection will continue
8 tomorrow at 9:15, trial is Monday the 20th and tell --
9 actually, you know what -- we've got to give them warnings
10 about research.

11 MR. FRISCH: We do.

12 THE COURT: I'm going to go to the Central Jury Room
13 and give them the instruction before they go.

14 (Pause in proceedings.)

15 (Continuing in Central Jury Room.)

16 THE COURT: Can everyone hear me back there? I'll
17 give it a minute for your colleagues to filter in. I want to
18 say this once and not twice. Those of you not in the room,
19 make sure you can hear me because it's important that you know
20 what's going on. If you can't hear me get closer.

21 Folks, a couple of things: Judge Garaufis has moved
22 the trial to Monday, March 20th through Friday, March 31st at
23 the latest. It's just like the period we had before. It's
24 likely that the trial isn't going to go all the way to March
25 31st. It's probably going to end before then but we wanted to

JURY SELECTION

371

1 give you enough warning so you can leave enough time if you're
2 selected for this jury.

3 Process is taking far longer than I had hoped. I
4 have been a magistrate judge for 17 years. I have picked
5 dozens of juries and only once has it taken me two days to
6 pick a jury, which we've already hit, so this is unusual and I
7 apologize and I'll take the blame for that.

8 We're going to let many of you go today and come
9 back tomorrow. I don't want to hold you here unnecessarily
10 and we're not going to be able to get to everyone today. So
11 jurors with a number 46 or higher can go home now or go
12 somewhere else. You don't have to stay here, but wait, wait.
13 This is very important: Do not do any internet research on
14 this case or on the defendant. If you see anything in the
15 news on TV, hear anything on the radio, it comes up on your
16 Facebook feed, whatever, I go know it. Turn it off, don't
17 listen to it. Don't talk to anybody about the case. If
18 anyone asks you, a spouse, kids, whatever, just say I'm in the
19 process of a jury selection to serve on a criminal case.
20 That's it.

21 If you see the lawyers or the parties in the hall
22 tomorrow morning, don't talk to them. They're not going to
23 talk to you. It's not because they're being rude, it's
24 because they're following the rules. Interactions between the
25 parties and the lawyers and the jurors can only take place in

JURY SELECTION

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1 the courtroom.

2 Now, this is very, very important, if anyone
3 approaches you about this case outside of the court, anywhere,
4 please let me know. People are not supposed to contact
5 jurors, prospective jurors, about anything. So leave them
6 alone and let the process unfolds as it does.

7 So, again, trial Monday the 20th through Friday, the
8 31st, Jurors 46 and higher can go home, come back tomorrow,
9 and those up to 45 stay here, we hope to get to you tonight
10 and it's my sincere hope. Come tomorrow at 9:15. Can you do
11 9 o'clock.

12 PROSPECTIVE JUROR NO. 100: I can't.

13 THE COURT: 9 o'clock for everybody.

14 Juror No. 100, you can come at 9:15.

15 Thank you, everyone.

16 (Pause in proceedings.)

17 (Continuing in Courtroom 2E.)

18 THE COURT: Juror No. 39, Audrian Ashman.

19 (Prospective juror enters.)

20 THE COURT: Good afternoon, Ms. Ashman. Sorry to
21 keep you waiting. Judge Garaufis has adjusted the trial
22 schedule. The trial will start on Monday, March 20th, and
23 will last until March 31st at the very latest.

24 Is there any reason why that would cause you a
25 general hardship if you were able to sit on this jury?

JURY SELECTION

373

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Have you, a family member or close
3 personal friend ever been charged with a crime, convicted of a
4 crime, been the subject of a criminal investigation, been
5 witness to a crime, been subject of a grand jury investigation
6 or the victim of a crime? Basically has anyone in your family
7 or close friends ever been involved in the criminal justice
8 system?

9 THE PROSPECTIVE JUROR: Never.

10 THE COURT: Have you, a family member or close
11 friend ever been a party to a legal action against or had a
12 dispute with the United States of America, its agencies or
13 employees?

14 THE PROSPECTIVE JUROR: Never.

15 THE COURT: Now, this case has received some degree
16 of media attention. Have you heard, read or seen anything in
17 the media about this case or about the defendant Douglas
18 Mackey otherwise known as Ricky Vaughn?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: This case involves various individuals
21 including the defendant Douglas Mackey who had strong
22 political preferences during the 2016 presidential election
23 campaign including individuals who supported President Donald
24 Trump and individuals who supported presidential candidate
25 Hilary Clinton.

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JURY SELECTION

374

1 Do you have strong feelings or opinions related to
2 the 2016 presidential election campaign or those candidates
3 such that it would overcome your duty to be fair and impartial
4 in this case?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Do you have any experience with what you
7 perceived to be deliberately false and misleading information
8 on the internet or social media?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: At trial you will hear some language
11 that you will find to be offensive. You should not assess
12 that evidence on whether you find it to be offensive or not
13 but rather on whether that evidence tends to prove or
14 disapprove the elements of the crime. If you found some of
15 the evidence to be offensive would you be able to put aside
16 your feelings about its offensiveness and judge that evidence
17 fairly and objectively, yes or no?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: You live in Howard Beach?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: How long?

22 THE PROSPECTIVE JUROR: An hour.

23 THE COURT: How long have you lived there?

24 THE PROSPECTIVE JUROR: Ten years.

25 THE COURT: I laughed because a number of jurors

JURY SELECTION

375

1 said half an hour. Okay, ten years, good. Do you own or do
2 you rent?

3 THE PROSPECTIVE JUROR: I own.

4 THE COURT: Do you live with anyone?

5 THE PROSPECTIVE JUROR: I live with my son, my
6 daughter-in-law and my daughter.

7 THE COURT: Do they all work?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: What does your son, your
10 daughter-in-law and your daughter do for a living?

11 THE PROSPECTIVE JUROR: My son is an electrician.
12 My daughter works for The Post Office and my daughter-in-law
13 is a 911 operator.

14 THE COURT: Are you working?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: What do you do for a living?

17 THE PROSPECTIVE JUROR: I'm a nursing assistant.

18 THE COURT: What is the highest level of education
19 that you completed?

20 THE PROSPECTIVE JUROR: High school.

21 THE COURT: Have you ever served in the military?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Where do you get your news from;
24 newspapers, radio, television, internet, social media,
25 podcasts?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: Sometimes I watch the news
2 if I get a chance, or if I'm at work and the news come on I
3 watch a little bit, but I don't have time to watch the news.

4 THE COURT: When you do watch at home, are there any
5 particular channels that you watch the news on?

6 THE PROSPECTIVE JUROR: No, no, not really.

7 THE COURT: Do you use the internet or social media?

8 THE PROSPECTIVE JUROR: Not internet -- no, not
9 really.

10 THE COURT: Do you have a Facebook account, Twitter,
11 Instagram, Snapchat?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Have you ever been involved in voter
14 education or voter registration or any get out and vote
15 efforts?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Do you have a hobbies?

18 THE PROSPECTIVE JUROR: Not really.

19 THE COURT: Okay. Are there any television shows or
20 radio programs that you regularly watch or listen to?

21 THE PROSPECTIVE JUROR: Yes. I like to watch NYPD
22 Blue on Sunday nights when I'm home and I like Fire. It comes
23 on, I think, Friday nights when I'm home.

24 THE COURT: What about radio?

25 THE PROSPECTIVE JUROR: No.

JURY SELECTION

377

1 THE COURT: Is there any reason why you can't be a
2 fair and impartial juror in this case?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Is there anything about this case that
5 would cause you to favor one side over the another?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Will you be able to set aside any
8 sympathies or biases you may have for any of the parties in
9 this case and render an impartial verdict based solely on the
10 evidence presented in court and the law as given to you by
11 Judge Garaufis?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Any follow-up questions for Ms. Ashman?

14 MR. GULLOTTA: No, Your Honor. Thank you.

15 MR. FRISCH: No, thank you.

16 THE COURT: Thank you, Ms. Ashman. You've made it
17 past this part. You can go home now. You need to come back
18 tomorrow at 2 p.m. and please don't do any internet research
19 on this case or on the defendant, Douglas Mackey if I . You
20 see anything on the TV or read anything in the papers, put it
21 away, don't watch it. Don't talk with anyone about the case
22 and if you see the lawyers in the halls tomorrow, they're not
23 going to talk to you. You don't talk to them. They're not
24 being rude. They're just fog the rules. If anyone approaches
25 you about the case tomorrow, let me know. Okay. Thank you.

JURY SELECTION

378

1 (Prospective juror exits.)

2 THE COURT: Folks, Juror No. 41, Ms. Chua has
3 prepaid travel from March 25th -- starting on March 25th.
4 Excuse her?

5 MR. GULLOTTA: The Government does not object.

6 MR. FRISCH: No objection.

7 THE COURT: And 43 has a medical appointment on
8 March 21st. I am inclined to excuse them both. That's Adam
9 Wollman.

10 MR. GULLOTTA: To the extent that he does have that
11 medical appointment, the Government does not object.

12 THE COURT: Mr. Frisch?

13 MR. FRISCH: I have a couple of concerns. They may
14 have figured out what they need to say to go. So it might be
15 worthy -- I don't know. I'll follow Your Honor's --

16 THE COURT: I don't like calling people a liar.

17 MR. FRISCH: That's not what I was saying.

18 THE COURT: Let's go in order. Let's bring in
19 Ms. Berkalieva and then we'll talk to Ms. Chua or do you mind
20 taking them out of order?

21 MR. FRISCH: I don't mind taking them out of order.

22 THE COURT: Bring in Ms. Chau first. I will note
23 that Ms. Chau did raise her paddle to the travel question and
24 so did Mr. Wollman.

25 (Prospective juror enters.)

JURY SELECTION

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1 THE COURT: Good afternoon -- good evening,
2 Ms. Chau.

3 THE PROSPECTIVE JUROR: Hi.

4 THE COURT: Juror No. 41. You indicated that you
5 have either prepaid vacation plans or confirmed medical
6 appointments over the next two weeks that cannot be moved; is
7 that correct?

8 THE PROSPECTIVE JUROR: Correct.

9 THE COURT: Where are you going?

10 THE PROSPECTIVE JUROR: I'm going to Taiwan on the
11 evening of March 25th.

12 THE COURT: And when he will you be coming back?

13 THE PROSPECTIVE JUROR: April 23rd.

14 THE COURT: You have confirmed tickets?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: How long ago did you make this plan?

17 THE PROSPECTIVE JUROR: Maybe about six weeks ago.

18 THE COURT: Okay. Who are you going to visit, if
19 anyone?

20 THE PROSPECTIVE JUROR: It's for a family event.

21 THE COURT: What is the event?

22 THE PROSPECTIVE JUROR: My brother's wedding.

23 THE COURT: Any objection to excusing Ms. Chau.

24 MR. GULLOTTA: No objection, Your Honor.

25 MR. FRISCH: No objection, Judge.

JURY SELECTION

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1 THE COURT: You're excused.

2 THE PROSPECTIVE JUROR: Thank you.

3 THE COURT: Go to the Central Jury Room and they'll
4 give you further instructions.

5 THE PROSPECTIVE JUROR: Thank you.

6 (Prospective juror exits.)

7 THE COURT: Number 43, Mr. Wollman.

8 (Prospective juror enters.)

9 THE COURT: Good evening, Mr. Wollman?

10 THE PROSPECTIVE JUROR: Good evening.

11 THE COURT: You indicated that you have either
12 prepaid vacation plans or confirmed medical appointments that
13 could not be moved over the next two weeks; is that correct?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Tell me about it. You have a medical
16 appointment; is that right?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: And that's on March 21st?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: How long ago did you schedule that
21 medical appointment?

22 THE PROSPECTIVE JUROR: I want too say a few months
23 ago.

24 THE COURT: And that is not something that you can
25 move?

JURY SELECTION

381

1 THE PROSPECTIVE JUROR: I'm not 100 percent sure, to
2 be honest.

3 THE COURT: Is it anything other than a regular
4 checkup with your primary care physician?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. And you did this a couple of
7 months ago?

8 THE PROSPECTIVE JUROR: Yes, back in January.

9 THE COURT: I do not really want to, on the record,
10 get into what it is and I will have to trust you. You're a
11 fitness coach, right?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Do you work for yourself or someone
14 else?

15 THE PROSPECTIVE JUROR: For myself.

16 THE COURT: Any objection to excusing Mr. Wollman?

17 MR. GULLOTTA: No, Your Honor.

18 MR. FRISCH: No.

19 THE COURT: Mr. Wollman, you're excused. You can go
20 to the Central Jury Room where you started off this morning
21 and they'll give you further instructions.

22 THE PROSPECTIVE JUROR: Thank you.

23 (Prospective juror exits.)

24 THE COURT: Number 40, Ms. Berkalieva.

25 (Prospective juror enters.)

JURY SELECTION

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1 THE COURT: Good afternoon, Ms. Berkalieva?

2 THE PROSPECTIVE JUROR: Correct.

3 THE COURT: You did not raise your juror number to
4 any of the questions in the main room.

5 THE PROSPECTIVE JUROR: I was on the fence about a
6 couple of them, so --

7 THE COURT: Do you remember which ones?

8 THE PROSPECTIVE JUROR: Yes. So, it's the do you
9 have any close friends who are lawyers. My best friend's
10 husband is a lawyer. Does that count? He's an intellectual
11 property attorney general.

12 THE COURT: I mean, is he a close friend of yours?

13 THE PROSPECTIVE JUROR: We don't really text.

14 THE COURT: So, that's the measure of closeness
15 whether you text or not?

16 THE PROSPECTIVE JUROR: Yeah. And there's another
17 one; can you be unbiased and completely impartial. I was
18 really unsure about that and I thought about it when I got
19 home.

20 THE COURT: Let me ask you first about the lawyer
21 relationship question. Ultimately that question goes to a
22 couple of things; one, whether you've learned anything about
23 the law through this relationship and, if you have, whether
24 you can set aside what you've learned about the law and judge
25 this case based on the law that's given to you by the

JURY SELECTION

383

1 presiding judge, Judge Garaufis?

2 THE PROSPECTIVE JUROR: I definitely did not learn
3 about the law from him.

4 THE COURT: So you can take Judge Garaufis'
5 instructions and apply them to the facts that you find?

6 THE PROSPECTIVE JUROR: Yeah.

7 THE COURT: Okay. Now, tell me about the other
8 issue.

9 THE PROSPECTIVE JUROR: The one about can you set
10 aside your -- like, I forget what it was. There were a couple
11 about similar sounding can you be truly unbiased and then I'm,
12 like, sure I can and then I got home and how I think messing
13 with elections is very serious and I don't know if I can be
14 unbiased with my preexisting beliefs.

15 THE COURT: Let me ask you about that. In a case,
16 any sort of court case, it's determined by the evidence
17 presented in court and the law that's applied. The jurors are
18 for deciding what the facts are based on the evidence and they
19 have to apply the law that's given by the judge to those facts
20 to determine what the outcome will be, what the verdict will
21 be. In a criminal case it's whether the Government has
22 satisfied its burden to prove beyond a reasonable doubt that
23 the defendant is guilty and the jurors have to do that; find
24 the facts and accept the law and put aside any -- any
25 sympathies they may have or prejudices or feelings and decide

JURY SELECTION

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1 it based on the evidence and do that fairly and impartially
2 and there are often times when the case involves issues that
3 are -- that people have strong feelings about.

4 THE PROSPECTIVE JUROR: Which I do.

5 THE COURT: The integrity of elections, for example.
6 But the question is not whether you have strong feelings. The
7 question is whether you can put aside those feelings and judge
8 the case based on what is presented in court and whether the
9 Government has or has not met its burden of proof.

10 THE PROSPECTIVE JUROR: I mean, yeah, I guess in a
11 perfect world I would be able to do that and I would want to
12 be able to do that.

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14 (Continued on the following page.)

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JURY SELECTION

385

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THE COURT: The question is do you think you can do that here?

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THE PROSPECTIVE JUROR: Yes. I think I could but I would have strong beliefs about it personally but, again, that's besides the point.

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THE COURT: So you do have strong beliefs but can you, but you can put them aside?

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THE PROSPECTIVE JUROR: Yes. Of course I'm not going to, like, like, impart my beliefs on, like, a person's fate despite the evidence. I would never do that.

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THE COURT: Let me ask the question a different way. If the evidence were presented by the government and you would look at it and say, yes, they didn't meet their burden of proof, the evidence does not prove beyond a reasonable doubt that Mr. Mackey is guilty, it doesn't, would your strong beliefs in the integrity of elections or anything overcome the government's failure --

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THE PROSPECTIVE JUROR: It would not, it would not overcome the proof.

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THE COURT: Okay. And the flip side is if the government meets its burden of proof, would you have any hesitancy irrespective of your personal beliefs with finding Mr. Mackey guilty?

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THE PROSPECTIVE JUROR: No.

JURY SELECTION

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1 THE COURT: Okay.

2 THE PROSPECTIVE JUROR: There was another question
3 too that I was on the fence about, this is the last one,
4 about, like, opinions about the police and I did not raise my
5 hand about that but I have some beliefs there too. Would
6 they -- to your point, I believe you said I would not impart
7 them, I would not let them, like, sway my decision about which
8 way to vote, but I did not raise my hand for that but I do
9 have strong beliefs about the police. So I don't have any
10 past experiences with the police nor do I have close friends
11 who have personally been, like, victimized by the police, but
12 I do have political opinions about that.

13 THE COURT: But those strong political opinions,
14 beliefs, will not overcome --

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: -- your decision here?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Okay. So the trial is going to start on
19 March 20th. Judge Garaufis moved it. It's going to last, the
20 latest, March 31st. More likely before then, it will end. Is
21 there any reason why this would cause you a genuine hardship?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Have you, a family member or close
24 friend ever been charged with a crime, convicted of a crime,
25 been the subject of a criminal investigation, been a witness

JURY SELECTION

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1 to a crime, been a witness in a grand jury proceeding,
2 questioned by law enforcement or been a victim of a crime? In
3 other words, have you, a family member or a close friend ever
4 been involved in the criminal justice system?

5 THE PROSPECTIVE JUROR: A couple of friends of mine
6 have been robbed at gunpoint before.

7 THE COURT: Okay.

8 THE PROSPECTIVE JUROR: I don't know if that counts.

9 THE COURT: No, that counts. You, family or close
10 friends. Would that affect your ability to be fair and
11 impartial in this case?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Have you, a family member or close
14 friend ever been a party to a legal action or had a dispute
15 against the United States, its agencies or employees?

16 THE PROSPECTIVE JUROR: No, I don't think so.

17 THE COURT: Now, this case has received some degree
18 of media attention. Have you heard, read or seen anything
19 about this case on the media or about the defendant Douglass
20 Mackey, otherwise known as Ricky Vaughn?

21 THE PROSPECTIVE JUROR: I did Google it yesterday
22 when I got home.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR: I'm sorry.

25 THE COURT: What did you see?

JURY SELECTION

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1 THE PROSPECTIVE JUROR: A couple of articles, a Vice
2 article.

3 THE COURT: A Vice article?

4 THE PROSPECTIVE JUROR: Or NBC article. I don't
5 know. A couple of top hits and then I stopped.

6 THE COURT: You read them?

7 THE PROSPECTIVE JUROR: I skimmed them. I didn't
8 read them, the details.

9 THE COURT: Have you formed any ideas, opinions or
10 conclusions about the facts of this case or about Mr. Mackey
11 based on your viewing of those articles yesterday?

12 THE PROSPECTIVE JUROR: Have I formed an opinion?

13 THE COURT: Yes.

14 THE PROSPECTIVE JUROR: About the case based on
15 those articles? I have.

16 THE COURT: And, remember, in a court case, any
17 court case, the only evidence is what is presented in court.
18 It's not what some --

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: -- blogger writes about or newspaper
21 person writes about or anything like that. It's what happens.
22 It's what's produced here.

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: So, again, do you have any ideas or
25 opinions or conclusions, have you come to a conclusion about

JURY SELECTION

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1 whether Mr. Mackey is guilty or not based upon reading those
2 articles?

3 THE PROSPECTIVE JUROR: I mean, I guess just
4 answering your question very specifically, like, can I
5 honestly make a, say what I think happened? No, I guess,
6 because it was some articles, but I did read them.

7 THE COURT: Okay. If you were selected as a juror
8 with the knowledge that you had read these articles, and the
9 government presented evidence and you concluded, based on the
10 evidence, that the government failed to meet its burden of
11 proof, it has not established beyond a reasonable doubt that
12 Mr. Mackey is guilty, would you have any hesitancy in
13 rendering a verdict of not guilty after having read those
14 articles which are not evidence?

15 THE PROSPECTIVE JUROR: I would stick to what was
16 presented in the trial because I would feel guilty about using
17 the information outside of the trial to make a decision. That
18 would not be good.

19 THE COURT: So are you able to set aside what you
20 read in those articles and judge this case based on the
21 evidence presented in the courtroom?

22 THE PROSPECTIVE JUROR: I think so, yeah, I would
23 like to think I could.

24 MR. FRISCH: Can we approach, Judge?

25 THE COURT: Yes.

JURY SELECTION

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1 (The following occurred at sidebar.)

2 MR. FRISCH: Challenge for cause. She said she had
3 opinions. She Googled the story already, saw the headlines
4 and skimmed two stories. When a prospective juror who is not
5 a lawyer and not used to be in federal court is being
6 questioned by a federal magistrate judge, it's difficult, it
7 seems to me, I've never been in that position, but it's
8 difficult to resist and say something which the juror may
9 perceive as being inappropriate or not what the judge, I'll
10 leave it to the word inappropriate. We're arguing she did get
11 an instruction, she Googled, she saw two articles and she said
12 she had opinions. I think that's enough to challenge her for
13 cause.

14 MR. GULLOTTA: We don't object.

15 THE COURT: Okay.

16 (In open court; sidebar ends.)

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JURY SELECTION

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1 (In open court; Prospective Jury present.)

2 THE COURT: Ms. Berkalieva, you are excused from
3 serving on this jury. You can report to the Central Jury
4 Room. They'll give you further instructions.

5 THE PROSPECTIVE JUROR: Cool. Thank you.

6 (Prospective juror excused.)

7 THE COURT: Juror Number 42, G L Rivilla-Rojas, no
8 positive responses.

9 (Prospective juror enters.)

10 THE COURT: Good evening, Ms. Rivilla-Rojas.

11 THE PROSPECTIVE JUROR: Good evening.

12 THE COURT: You did not raise your juror number in
13 the main room to any of the questions, correct?

14 THE PROSPECTIVE JUROR: That's correct.

15 THE COURT: The trial in the case is going to start
16 on Monday, the 20th, it's been changed slightly, and it will
17 conclude no later than Friday, March 31st, but more likely
18 before then.

19 Is there any reason why this would cause you a
20 genuine hardship were you selected to serve on this jury?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Have you, a family member or close
23 friend ever been charged with a crime, convicted of a crime,
24 been the subject of a criminal investigation, been a witness
25 to a crime, been a witness in a grand jury investigation or

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1 been questioned in any matter by law enforcement officers or
2 been the victim of a crime?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Okay. Have you, a family member or
5 close friend ever been a party to a legal action or dispute
6 against the United States or any of its agencies or employees?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: This case has received some degree of
9 media attention. Have you read, heard or seen anything in the
10 media about this case or about the defendant Douglass Mackey
11 a/k/a Ricky Vaughn?

12 THE PROSPECTIVE JUROR: Not until yesterday, to be
13 honest, but I swiped it.

14 THE COURT: You Googled it or something?

15 THE PROSPECTIVE JUROR: I didn't. I was on my, on
16 my Facebook and it did pop up.

17 THE COURT: It was on your Facebook?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: And it popped up in your feed?

20 THE PROSPECTIVE JUROR: It did.

21 THE COURT: And what was it that popped up?

22 THE PROSPECTIVE JUROR: The jurors were, I mean the
23 jurors were being picked. That's -- but I only read the title
24 and I swiped.

25 THE COURT: Okay. Other than that, have you --

JURY SELECTION

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1 THE PROSPECTIVE JUROR: Never heard about it.

2 THE COURT: Okay. Seeing that on your Facebook
3 feed, did you form any ideas or opinions or conclusions about
4 the facts of this case or about the defendant Douglass Mackey?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: This case involves various individuals
7 including the defendant Douglass Mackey who had strong
8 political preferences during the 2016 Presidential election
9 campaign including individuals who supported President Donald
10 Trump and others who supported Presidential candidate Hillary
11 Clinton.

12 Do you have strong feelings or opinions related to
13 the 2016 Presidential election campaign or to the two
14 candidates during that campaign such that it would overcome
15 your duty to judge this case fairly and impartially?

16 THE PROSPECTIVE JUROR: No. Honestly, I didn't even
17 vote.

18 THE COURT: Honestly, you what?

19 THE PROSPECTIVE JUROR: Didn't even vote.

20 THE COURT: Okay. Do you have any experience with
21 what you perceived to be deliberately false or misleading
22 information on the internet or on social media?

23 THE PROSPECTIVE JUROR: Pretty much I don't believe
24 much of social media. I don't go by anything on social media.
25 And news, I, very sparely. A news person, to watch news every

JURY SELECTION

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1 day? No.

2 THE COURT: Okay. Would the fact that you don't
3 believe a lot of what's on the internet or social media, would
4 that affect your ability to be fair and impartial in this
5 case?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: At trial, you may hear some language
8 that you may find to be offensive. You should not assess that
9 evidence based on whether you find it to be offensive or not
10 but, rather, based on whether that evidence tends to prove or
11 disprove the elements of the crime that's been charged.

12 If you found some of the evidence to be offensive,
13 would you be able to put aside your feelings about its
14 offensiveness?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: And judge this case fairly and
17 impartially?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: You live, Ms. Rivilla-Rojas, in
20 Brooklyn, correct?

21 THE PROSPECTIVE JUROR: That's correct.

22 THE COURT: How long have you lived in Brooklyn?

23 THE PROSPECTIVE JUROR: Thirty-two years.

24 THE COURT: Do you own or do you rent?

25 THE PROSPECTIVE JUROR: I rent.

JURY SELECTION

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1 THE COURT: Do you live with anyone?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Who do you live with?

4 THE PROSPECTIVE JUROR: My husband.

5 THE COURT: What does your husband do for a living?

6 THE PROSPECTIVE JUROR: He's a school bus driver.

7 THE COURT: Do you have any kids?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: What do you do for a living?

10 THE PROSPECTIVE JUROR: I work for 1199. I'm a data
11 analyst.

12 THE COURT: For Local 1199?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: What's the highest level of education
15 you completed?

16 THE PROSPECTIVE JUROR: College.

17 THE COURT: Bachelor's degree or Associate's?

18 THE PROSPECTIVE JUROR: Associate's.

19 THE COURT: Have you ever served in the military?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: What branch?

22 THE PROSPECTIVE JUROR: Navy.

23 THE COURT: How long?

24 THE PROSPECTIVE JUROR: Three years. I served two
25 years and my dismissal was in 1999.

JURY SELECTION

396

1 THE COURT: You told us that you don't watch much
2 news but when you do watch news, where do you get it from,
3 newspapers, radio, television, internet?

4 THE PROSPECTIVE JUROR: Television.

5 THE COURT: Television?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: Are there any particular television news
8 stations that you watch?

9 THE PROSPECTIVE JUROR: New York 1.

10 THE COURT: Do you use the internet and social
11 media?

12 THE PROSPECTIVE JUROR: I do.

13 THE COURT: What platforms?

14 THE DEFENDANT: I use Google.

15 THE COURT: You told us Facebook already.

16 THE PROSPECTIVE JUROR: Yes. I have Instagram also.
17 I use Google.

18 THE COURT: How frequently are you on your Instagram
19 account, Facebook, Google?

20 THE PROSPECTIVE JUROR: Google, pretty much every
21 day, but Instagram, every two or three days if I get a message
22 or something. I'm not there every day.

23 THE COURT: Are you concerned at all about the
24 reliability of the information that you find on the internet
25 and social media being that you don't believe most of what you

JURY SELECTION

397

1 see?

2 THE PROSPECTIVE JUROR: It's scary, some of the
3 stuff you find there.

4 THE COURT: Will your concern about the scary things
5 you see on the internet and social media affect --

6 THE PROSPECTIVE JUROR: Not really.

7 THE COURT: -- your ability to be fair and
8 impartial?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Have you been involved in voter
11 education, voter registration or any Get Out the Vote efforts?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: What are your hobbies? How do you spend
14 your leisure time?

15 THE PROSPECTIVE JUROR: Well, the summertime, I like
16 to travel and beach time, books, running. That's about it.

17 THE COURT: All right. What television shows or
18 radio programs do you regularly read or watch?

19 THE PROSPECTIVE JUROR: Oh, my God, I watch the CW,
20 mostly the CW, Channel 11, and all the super heroes shows.
21 That's about it.

22 THE COURT: Okay. No radio?

23 THE PROSPECTIVE JUROR: Sometimes.

24 THE COURT: Any particular radio --

25 THE PROSPECTIVE JUROR: -- station? Mega.

JURY SELECTION

398

1 THE COURT: Is there any reason why you cannot be
2 fair and impartial in this case?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Is there anything about this case that
5 would cause you to favor one side over the other?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Will you be able to set aside any
8 sympathies or biases you may have for any of the parties in
9 this case and render an impartial verdict based solely on the
10 evidence presented in court and the law as given to you by the
11 judge?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Any followup for Ms. Rivilla-Rojas?

14 MR. GULLOTTA: No thank you, Your Honor.

15 MR. FRISCH: No thank you.

16 THE COURT: Ms. Rivilla-Rojas, you've made it
17 through this point successfully.

18 THE PROSPECTIVE JUROR: Okay.

19 THE COURT: I'm going to ask you to go home, go
20 wherever you want if you've got plans this evening, and come
21 back tomorrow at 2:00 p.m.

22 THE PROSPECTIVE JUROR: Okay.

23 THE COURT: Don't --

24 THE PROSPECTIVE JUROR: Discuss?

25 THE COURT: -- Google this case --

JURY SELECTION

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1 THE PROSPECTIVE JUROR: No.

2 THE COURT: -- or Mr. Mackey. If you see anything
3 more on your Facebook feed, ignore it. If you see anything on
4 TV, hear anything on the radio and the newspapers, whatever,
5 ignore it. Don't watch it. Don't listen to it. Don't read
6 it.

7 THE PROSPECTIVE JUROR: No problem.

8 THE COURT: If anyone contacts you about the case,
9 let me know tomorrow.

10 THE PROSPECTIVE JUROR: Sure.

11 THE COURT: Don't talk about the case with anyone.
12 Just tell them, if they ask, or your husband asks you, "I've
13 been selected to" or "I'm in the selection process to serve on
14 a criminal case." Don't get involved in any discussions about
15 the case.

16 If you see the lawyers outside tomorrow in the hall
17 or Mr. Mackey, they're going to not speak with you and pretty
18 much you'll think that they're ignoring you. It's not that
19 they are. It's that they see you and they're not supposed to
20 interact with you outside of the courtroom. Okay? And so you
21 don't talk to them even. All right?

22 THE PROSPECTIVE JUROR: Understood.

23 THE COURT: Thank you so much. See you tomorrow.

24 THE PROSPECTIVE JUROR: Thank you. Have a good
25 night.

JURY SELECTION

400

1 (Prospective juror exits.)

2 THE COURT: Can we get through two more tonight, you
3 think?

4 You're done?

5 MR. FRISCH: Yes.

6 THE COURT: I hate to do it to them.

7 MR. PAULSEN: We're fine to go as long as you want.

8 MR. FRISCH: Actually, what I was thinking was you
9 told them 5:30 and I fear for your safety.

10 THE COURT: Do me a favor. Ask them if they want to
11 continue through, it will take us about another 20 minutes,
12 or whether they want to go home and come back tomorrow morning
13 at 9 o'clock.

14 I told them 9 o'clock. I told the jurors 9 o'clock.

15 (Pause.)

16 THE COURT: They want to stay.

17 Let's bring in John Thomas, Number 44.

18 (Prospective juror enters.)

19 THE COURT: Good evening, Mr. John -- excuse me --
20 Mr. Thomas.

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: You indicated that you have difficulty
23 reading or understanding English.

24 THE PROSPECTIVE JUROR: Reading, it's okay, but I
25 can't speak not well.

JURY SELECTION

401

1 THE COURT: How long have you been in the United
2 States?

3 THE PROSPECTIVE JUROR: I've been more, more than
4 17 years.

5 THE COURT: All right. What do you do for a living?

6 THE PROSPECTIVE JUROR: I working two years, around
7 two years, I working in the Postal Service.

8 THE COURT: Food service?

9 THE PROSPECTIVE JUROR: Postal, Postal Service.

10 THE COURT: Postal Service?

11 THE PROSPECTIVE JUROR: Before I'm working a private
12 company.

13 THE COURT: And are you married?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: What does your spouse do for a living?
16 Your wife, what does she do?

17 THE PROSPECTIVE JUROR: My wife is a nurse, RN. I
18 have two daughters also. They are also, they are also
19 working, they're nurses.

20 THE COURT: They're both nurses?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Taking after their mother?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Good. And do they live with you?

25 THE PROSPECTIVE JUROR: Yes.

JURY SELECTION

402

1 THE COURT: Okay. Mr. Thomas, the trial is going to
2 start on the 20th of March, next Monday.

3 THE PROSPECTIVE JUROR: Next Monday.

4 THE COURT: And it's supposed to go until March
5 31st. Is there any reason this would cause you a genuine
6 hardship if you were selected to serve on this jury?

7 THE PROSPECTIVE JUROR: I don't understand that.

8 THE COURT: Would it be difficult for you to serve
9 on this jury for that length of time?

10 THE PROSPECTIVE JUROR: No, no problem. I'm coming
11 20th.

12 THE COURT: You come in from Nassau County, New Hyde
13 Park?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Have you, a family member or close
16 friend ever been charged with a crime, convicted of a crime,
17 been the subject of a criminal investigation, been a witness
18 to a crime, been a witness in a grand jury investigation or
19 been questioned in any matter by law enforcement officers or
20 been the victim of a crime?

21 Do you understand or no?

22 THE PROSPECTIVE JUROR: No.

23 (Continued on next page.)
24
25

JURY SELECTION

403

1 THE COURT: All right, Mr. Thomas, I'm going to
2 excuse you from serving on the jury. You can go to the
3 central jury room where you started off this morning --

4 THE PROSPECTIVE JUROR: Okay.

5 THE COURT: -- and they'll give you further
6 instructions. Okay?

7 THE PROSPECTIVE JUROR: Tomorrow?

8 THE COURT: You don't have to come back tomorrow,
9 no, but go tonight -- are they still there.

10 THE PROSPECTIVE JUROR: Okay.

11 THE COURT: Go to the central jury room, they'll
12 give you your instructions.

13 THE PROSPECTIVE JUROR: Yeah.

14 (Prospective juror exits the courtroom.)

15 (Prospective juror enters the courtroom.)

16 THE COURT: Good afternoon, Ms. Pryor, lucky you.

17 THE PROSPECTIVE JUROR: I'm the last one here.

18 THE COURT: Yes.

19 Ms. Pryor, you indicated that you have served on a
20 jury or grand jury before.

21 THE PROSPECTIVE JUROR: I have.

22 THE COURT: Tell me about that, please.

23 THE PROSPECTIVE JUROR: It was in 2018 in the
24 Manhattan federal court.

25 Do you need more information than that?

JURY SELECTION

404

1 THE COURT: What kind of case was it?

2 THE PROSPECTIVE JUROR: It was a drug-related case.

3 THE COURT: Criminal case?

4 THE PROSPECTIVE JUROR: Criminal case.

5 THE COURT: Without revealing what, if anything, the
6 verdict was, did the jury reach a verdict?

7 THE PROSPECTIVE JUROR: Yes, we did.

8 THE COURT: So this case is going -- the trial is
9 going to start on March 20th and last through March 31st, at
10 the latest, probably will conclude before then, shortly before
11 then.

12 Is there anything reason why this would cause you a
13 genuine hardship if you were selected to serve on the jury?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Do you have -- have you, or any member
16 of your family or close friend ever been charged with a crime?
17 Convicted of a crime? Been the subject of a criminal
18 investigation? Been a witness to a crime? Witness to a grand
19 jury investigation or been questioned in any matter by law
20 enforcement, or been the victim of a crime?

21 In other words, have you, family members or close
22 friends ever been part of the criminal justice process?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Tell me about that, please.

25 THE PROSPECTIVE JUROR: My father was part of a

JURY SELECTION

405

1 criminal investigation for part of his job a couple years ago.

2 THE COURT: Was that criminal investigation resolved
3 to your family's satisfaction?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Is there anything about that that would
6 affect your ability to be fair and impartial in this case?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: There was an investigation into his --
9 into a business that he was a part of?

10 THE PROSPECTIVE JUROR: Yes. So he was the CFO of a
11 business. And it was just like a general investigation that
12 was part of it, but nothing came of that investigation.

13 THE COURT: Okay.

14 Have you, a family member or close friend ever been
15 a party to a legal action or had a dispute against the United
16 States, its agencies or employees?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Now this case has received some degree
19 of media attention.

20 Have you read, heard or seen anything in the media
21 about this case or about the defendant Douglass Mackey,
22 otherwise known Ricky Vaughn?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: This case involves individuals, various
25 individuals, including Mr. Vaughn -- excuse me, Mr. Mackey,

JURY SELECTION

406

1 who had strong political preferences during the 2016
2 presidential election campaign, including individuals who
3 supported President Donald Trump and individuals who supported
4 presidential and candidate Hillary Clinton.

5 Do you have any strong feelings or opinions related
6 to the 2016 presidential election campaign or to those two
7 candidates such that it would overcome your ability to be fair
8 and impartial in this case?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Do you have any experience with what you
11 perceive to be deliberately false or misleading information on
12 the internet or in social media?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: At trial, you may hear some language
15 that you may find to be offensive. You should not assess the
16 evidence you hear based on whether you find it to be offensive
17 or not, but rather whether it tends to prove or disprove the
18 elements of the crime.

19 If you found some of the evidence to be offensive,
20 would you be able to set aside your feelings about its
21 offensiveness and objectively evaluate it fairly and
22 impartially?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: You live in Brooklyn?

25 THE PROSPECTIVE JUROR: I do.

JURY SELECTION

407

1 THE COURT: How long?

2 THE PROSPECTIVE JUROR: Four years. About four
3 years.

4 THE COURT: Do you own or do you rent?

5 THE PROSPECTIVE JUROR: I rent.

6 THE COURT: Do you live with anyone?

7 THE PROSPECTIVE JUROR: Yes, I live with my husband.

8 THE COURT: What does your husband do for
9 employment, if anything?

10 THE PROSPECTIVE JUROR: He works for a company
11 called Fancy Tone, which is like a music discovery platform.

12 THE COURT: Do you have any kids?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: My list says you're in human resources.

15 THE PROSPECTIVE JUROR: That's correct.

16 THE COURT: Who do you work for?

17 THE PROSPECTIVE JUROR: I work for Etsy.

18 THE COURT: Heard of it.

19 What's your highest level of education?

20 THE PROSPECTIVE JUROR: Bachelor's degree.

21 THE COURT: Have you ever served in the military?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Where do you get your news from?

24 Newspapers? Radio? Television? Internet? Social media?

25 Podcasts? Everything? Everywhere?

JURY SELECTION

408

1 THE PROSPECTIVE JUROR: A little bit of a mixture,
2 so typically the New York Times and the daily podcasts, if I
3 have time to read it, which I don't really have time.

4 THE COURT: You get news from TV?

5 THE PROSPECTIVE JUROR: TV, no, I don't have TV.

6 THE COURT: Do you use the internet and social
7 media?

8 THE PROSPECTIVE JUROR: I use Instagram, but not
9 social media very often.

10 THE COURT: Do you have Facebook, Instagram, Twitter
11 Snapchat, TikTok, whatever, any of those?

12 THE PROSPECTIVE JUROR: I have Instagram. I don't
13 use often. And I also have BeReal.

14 THE COURT: I don't know that one.

15 THE PROSPECTIVE JUROR: It's a newer one.

16 THE COURT: And how do you use BeReal or the
17 Instagram when you do use it?

18 THE PROSPECTIVE JUROR: So BeReal is essentially --
19 it's the same prompt to every person at the same exact time so
20 you don't have time to like do any -- so you essentially have
21 to take picture within two minutes. So it's just people
22 taking pictures of their daily life. It's not like Instagram.

23 THE COURT: I've heard of that.

24 THE PROSPECTIVE JUROR: It's a pretty new thing.

25 THE COURT: How frequently are you on it?

JURY SELECTION

409

1 THE PROSPECTIVE JUROR: Once a day maybe. Instagram
2 not often.

3 THE COURT: Are you concerned at all about the
4 reliability of information that you find on the internet and
5 social media?

6 THE PROSPECTIVE JUROR: Yes. Just --

7 THE COURT: Will that affect your ability to be fair
8 and impartial in this case?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Have you ever been involved in voter
11 education, voter registration or "get out the vote" efforts?

12 THE PROSPECTIVE JUROR: Like a person that goes out
13 and does that?

14 THE COURT: With an organization or, you know, man
15 the voter registration tables, or anything like that?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: What are your hobbies? How do you spend
18 your leisure time?

19 THE PROSPECTIVE JUROR: I take night courses down on
20 Atlantic Street, and I'm also in signed up for a language
21 course for Italian.

22 THE COURT: Are there any television shows or radio
23 programs that you regularly watch or listen to.

24 THE PROSPECTIVE JUROR: Yes, I watch 90 Day Fiance.

25 THE COURT: Can you be fair and impartial in this

JURY SELECTION

410

1 case?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Is there anything about the case that
4 would cause you to favor one side over the over?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Will you be able to set aside any
7 sympathies or bias -- I'm sorry, the lights turned off
8 automatically.

9 Will you be able to set aside any biases you may
10 have for any of the parties in this case and render an
11 impartial verdict based solely on the evidence presented in
12 the court and the laws given to you by Judge Garaufis.

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Do you have any follow-up for Ms. Pryor?

15 MR. GULLOTTA: No, Your Honor.

16 MR. FRISCH: No, Your Honor.

17 THE COURT: Ms. Pryor, thank you. You've made it
18 through. You can go home, or go wherever. You don't have to
19 stay here, but you have to come back tomorrow at 2.

20 THE PROSPECTIVE JUROR: At 2:00.

21 THE COURT: We need to get a few more people to get
22 enough -- a large enough pool from which the parties can
23 exercise their peremptory challenges.

24 Don't do any internet research about this case. If
25 you see anything on the TV, radio, if you hear it, comes

JURY SELECTION

411

1 across your feed, whatever, ignore it. Don't read it.

2 Don't talk about the case with anyone. Anyone asks
3 you, I'm in the process of being selected to serve on a jury
4 in a criminal case. That's it.

5 You see the lawyers in the hall tomorrow, they're
6 going to look like they're ignoring you. And that's not
7 because they are, it's because they are not to have any
8 contact with you outside of the courtroom. Don't talk to them
9 either.

10 And if anyone contacts you about this case and tries
11 to get any information from you, please let me know about it,
12 okay?

13 THE PROSPECTIVE JUROR: All right.

14 THE COURT: Have a great evening. Thanks.

15 * * * * *

16 (Proceedings adjourned at 6:00 p.m. to resume on
17 March 15, 2023 at 9:00 a.m.)

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